

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 10 May 1995

The Council met at half-past Two o'clock

PRESENT

THE PRESIDENT

THE HONOURABLE SIR JOHN SWAINE, C.B.E., LL.D., Q.C., J.P.

THE CHIEF SECRETARY

THE HONOURABLE MRS ANSON CHAN, C.B.E., J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE SIR NATHANIEL WILLIAM HAMISH MACLEOD, K.B.E., J.P.

THE ATTORNEY GENERAL

THE HONOURABLE JEREMY FELL MATHEWS, C.M.G., J.P.

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, O.B.E., J.P.

THE HONOURABLE HUI YIN-FAT, O.B.E., J.P.

THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.

DR THE HONOURABLE DAVID LI KWOK-PO, O.B.E., LL.D., J.P.

THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.

THE HONOURABLE PANG CHUN-HOI, M.B.E.

THE HONOURABLE SZETO WAH

THE HONOURABLE TAM YIU-CHUNG

THE HONOURABLE ANDREW WONG WANG-FAT, O.B.E., J.P.

THE HONOURABLE LAU WONG-FAT, O.B.E., J.P.

THE HONOURABLE RONALD JOSEPH ARCULLI, O.B.E., J.P.

THE HONOURABLE MARTIN GILBERT BARROW, O.B.E., J.P.

THE HONOURABLE MRS PEGGY LAM, O.B.E., J.P.

THE HONOURABLE MRS MIRIAM LAU KIN-YEE, O.B.E., J.P.

THE HONOURABLE LAU WAH-SUM, O.B.E., J.P.

DR THE HONOURABLE LEONG CHE-HUNG, O.B.E., J.P.

THE HONOURABLE JAMES DAVID MCGREGOR, O.B.E., I.S.O., J.P.

THE HONOURABLE MRS ELSIE TU, C.B.E.

THE HONOURABLE PETER WONG HONG-YUEN, O.B.E., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE VINCENT CHENG HOI-CHUEN, O.B.E., J.P.

THE HONOURABLE MOSES CHENG MO-CHI

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHIM PUI-CHUNG

REV THE HONOURABLE FUNG CHI-WOOD

THE HONOURABLE TIMOTHY HA WING-HO, M.B.E., J.P.

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE HUANG CHEN-YA

THE HONOURABLE SIMON IP SIK-ON, O.B.E., J.P.

DR THE HONOURABLE LAM KUI-CHUN

DR THE HONOURABLE CONRAD LAM KUI-SHING, J.P.

THE HONOURABLE EMILY LAU WAI-HING

THE HONOURABLE LEE WING-TAT

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE FRED LI WAH-MING

THE HONOURABLE MAN SAI-CHEONG

THE HONOURABLE STEVEN POON KWOK-LIM

THE HONOURABLE HENRY TANG YING-YEN, J.P.

THE HONOURABLE TIK CHI-YUEN

THE HONOURABLE JAMES TO KUN-SUN

DR THE HONOURABLE SAMUEL WONG PING-WAI, M.B.E., J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE HOWARD YOUNG, J.P.

THE HONOURABLE ZACHARY WONG WAI-YIN

DR THE HONOURABLE TANG SIU-TONG, J.P.

THE HONOURABLE CHRISTINE LOH KUNG-WAI

THE HONOURABLE ROGER LUK KOON-HOO

THE HONOURABLE ANNA WU HUNG-YUK

THE HONOURABLE JAMES TIEN PEI-CHUN, O.B.E., J.P.

THE HONOURABLE LEE CHEUK-YAN

ABSENT

THE HONOURABLE ALLEN LEE PENG-FEI, C.B.E., J.P.

THE HONOURABLE EDWARD HO SING-TIN, O.B.E., J.P.

THE HONOURABLE MARVIN CHEUNG KIN-TUNG, O.B.E., J.P.

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE ALFRED TSO SHIU-WAI

IN ATTENDANCE

MR MICHAEL LEUNG MAN-KIN, C.B.E., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

MR MICHAEL SUEN MING-YEUNG, C.B.E., J.P.
SECRETARY FOR HOME AFFAIRS

MR GORDON SIU KWING-CHUE, J.P.
SECRETARY FOR ECONOMIC SERVICES

MR NICHOLAS NG WING-FUI, J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

MRS KATHERINE FOK LO SHIU-CHING, O.B.E., J.P.
SECRETARY FOR HEALTH AND WELFARE

MR PETER LAI HING-LING, J.P.
SECRETARY FOR SECURITY

MR CANICE MAK CHUN-FONG, J.P.
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

MR KWONG KI-CHI, J.P.
SECRETARY FOR THE TREASURY

THE CLERK TO THE LEGISLATIVE COUNCIL
MR RICKY FUNG CHOI-CHEUNG

THE DEPUTY SECRETARY GENERAL
MR RAY CHAN YUM-MOU

PAPERS

The following papers were laid on the table pursuant to Standing Order 14(2):

Subject

Subsidiary Legislation	<i>L.N. No.</i>
Official Languages (Alteration of Text) (Magistrates Ordinance) Order 1995	158/95
Pension Benefits Ordinance (Established Offices) Order	159/95
Official Languages (Authentic Chinese Text) (Magistrates Ordinance) Order	(C)32/95

Sessional Papers 1994-95

- No. 83 — Government Minute in response to the Report of the Public Accounts Committee dated January 1995
- No. 84 — Hospital Authority Annual Report 1993-94
- No. 85 — Statement of Accounts of the Samaritan Fund
- No. 86 — Report of the Special Meetings of the Finance Committee on the Draft Estimates of Expenditure 1995-96

ADDRESSES**Government Minute in response to the Report of the Public Accounts Committee dated January 1995**

CHIEF SECRETARY: Mr President, laid on the table today is the Government Minute responding to Report No. 23 of the Public Accounts Committee (PAC). The Minute sets out the measures the Government has taken, or is planning to take, on the conclusions and recommendations contained in the Report. It also seeks to elucidate the Government's position on matters arising from previous PAC reports on which the Committee has made further comments, and where appropriate, updates progress on those matters.

The Honourable Peter WONG, Chairman of the PAC, spoke in this Council on 15 February 1995 when tabling the Report. I would like to respond to some of the points he made.

The first issue addressed by Mr WONG in his speech relates to the "sale of a commercial site in Garden Road" covered in PAC Report No. 21A. In the Government Minute dated 12 October 1994, we have already presented clearly the findings and analysis leading to our conclusion that, in that particular case, there is no evidence to substantiate any act of misconduct which would warrant disciplinary proceedings.

The Committee has expressed its concern that our conclusion will send out a message that if there is no evidence of "bad faith", an officer's wrongdoing of whatever degree of blame will always be tolerated. This is certainly not our intention. We take the question of accountability very seriously and the Committee is aware that we have carried out an extensive investigation into the case. I regret that our conclusion does not appear to be acceptable to the Committee.

As in any organization, we in the Civil Service have to give our officers a certain degree of discretion to enable decisions to be taken efficiently, and at the level most appropriate to the case. There will inevitably be occasions when a judgement is made which, with hindsight, may not be considered the best or the most appropriate. However, such "imperfect" judgement does not, and should not, of itself amount to misconduct which warrants disciplinary action. To do otherwise would adversely affect the decision-making mechanism and, in turn, civil service efficiency.

Mr WONG also highlighted the Committee's concern that a number of the situations which attracted the Director of Audit's criticism have been caused, at least partly, by the problem of insufficient information provided to the Executive Council, the Legislative Council or the Housing Authority. I would like to assure Members that we always aim to provide full and accurate information to the two Councils. And I am sure this wish is shared by our colleagues who service the Housing Authority. But Members will appreciate that deciding how much information is sufficient and whether the information is relevant for inclusion in a paper must largely be a matter of judgement. It is not something on which we can lay hard and fast rules. Under our system, Honourable Members have the right to question officials and to ask for any additional information necessary for their consideration of a proposal, and we have always responded to these as best we can. That said, let me reassure Members that we note the Committee's concern on the matter, and we will do our best to provide adequate information in our submissions to facilitate the two Council's consideration of our proposals.

We are pleased to learn that the Committee appreciates the efforts we have made to improve the presentation of financial and performance information to Members. The answer to the question of "adequacy and quality

of financial and performance information provided by the Government to the Legislative Council" is one of balance. A balance between the need, on the one hand, to provide Members with the information necessary to enable them to monitor the efficiency and effectiveness with which Government uses the funds approved by the legislature; and on the other hand, not to burden Members with too many facts and figures.

In preparing the Draft Estimates for 1995-96, and the submissions to the Finance Committee and its subcommittees, we have already implemented many of the recommendations contained in the Director of Audit's Report. I trust Members have found these changes useful. The form and content of the Government's financial and performance reporting to Members is subject to a process of change and evolution. Let me assure Members that the Administration is committed to the ongoing development and refinement of performance measures to assist Members to fulfil their function of monitoring the Government's use of resources.

Mr President, the Administration is as keen as the PAC to ensure proper and efficient management of its financial affairs and appreciates fully the importance of the Committee's findings and recommendations. We will continue to work closely with the Audit Department and the PAC in our quest for greater efficiency. I am confident that the measures we have taken, or are planning to take, will go a long way towards achieving this end.

Hospital Authority Annual Report 1993-94

SECRETARY FOR HEALTH AND WELFARE: Mr President, it is my pleasure to present this Council with the Hospital Authority Annual Report covering the period from 1 April 1993 to 31 March 1994.

The reporting period covered another year of progress and vigorous developments for the Hospital Authority. Great strides have been made towards the devolution of administrative responsibilities, the nurturing of a patient-centred culture of service and the development of a close partnership with the community.

Continuous quality improvement remains the guiding principle adopted by the Hospital Authority in planning its service initiatives. Through the concept of clustering and networking, each hospital within the same geographical region is now functioning with a distinctive clinical role to support one another in enhancing the efficiency of service delivery. The new management structure with clear lines of accountability, better responsiveness to changing demands and greater emphasis on the needs of patients has been put into place. The Authority also appointed a Chief Executive with effect from 1 January 1994 to oversee the full range of its activities and to pave the way for further rationalization of the staffing structure in the Head Office.

One of the Authority's primary objectives is to ensure that its services meet the specific needs of patients and that our public hospital services provide good value for money. To this end, the annual planning cycle has proven to be an effective mechanism to identify key areas for improvement by linking up resource input with service targets and quality outcomes. Development of clinical protocols and outcome indicators will be pursued as the next step to achieve a more rational basis for internal resource allocation and performance monitoring.

In line with its continuous efforts to foster a close partnership with the community, the Hospital Authority has established six new Hospital Governing Committees during the year, bringing together 34 such committees to provide a direct venue for public participation in the management and planning of hospital services. The setting up of a hotline for public feedback and enquiries, the designation of an officer responsible for patients relations in each hospital and the revamped procedures for handling public complaints are all part of this effort.

All these achievements owe much to the dedicated members and staff of the Hospital Authority. I would like to pay a special tribute to Sir S Y CHUNG, who has led the Authority from its infancy stage in 1988 until his retirement from the Board in March. He has been a tower of strength and the driving force behind many innovative changes brought into our public hospital system. His tremendous success and drive, his leadership in and success in building up a strong team within the Hospital Authority have set the scene for further improvements of the system in future.

Last but not least, I would like to thank Honourable Members of this Council and the general public for their invaluable support in our mission to improve the quality of patient care in Hong Kong.

Report of the Special Meetings of the Finance Committee on the Draft Estimates of Expenditure 1995-96

MR ANDREW WONG: Mr President, on behalf of the Finance Committee, I have the honour to table the Committee's Report of its special meetings to examine the Administration's Draft Estimates of Expenditure for 1995-96.

This Report contains the verbatim records of the three days' special meetings held from 15 to 17 March 1995. A total of six meetings divided into 18 sessions were held on these three days. During each session, Members raised questions on the Draft Expenditure Estimates and on the presentations given by the attending Branch Secretaries and Controlling Officers.

Mr President, this is the first year that the Finance Committee is chaired by a non-government Member. In order to facilitate the smooth conduct of

business, I have requested for guidelines to be drawn up on the logistical arrangements and for the submission of written questions before the meetings. A list of subjects that were not directly related to the Expenditure Estimates was compiled and circulated to Members to minimize the number of questions that might be ruled out of order. In this year, Members raised a total of 905 written questions prior to the meetings and another 90 supplementary questions were raised and answered after the meeting.

Mr President, I would like to express my appreciation to Members for their questions which were submitted well on time and were of a high quality. My thanks also go as to Members and the Administration for their active participation and deliberations in the meetings, without which the three full days of special meetings would not have proceeded so smoothly.

Thank you, Mr President.

ORAL ANSWERS TO QUESTIONS

Destruction of Files of Standing Committee on Pressure Groups

1. MS ANNA WU asked: *In his written answer of 15 February 1995 to my question in this Council concerning the establishment and subsequent activities of the Standing Committee on Pressure Groups (SCOPG), the Secretary for Security stated that all SCOPG files containing assessments and reports had been destroyed. In this regard, will the Government inform this Council:*

- (a) *when, under whose direction and for what purpose the SCOPG reports were destroyed;*
- (b) *what the Government's policy concerning the destruction of government documents is; and*
- (c) *on what basis did the former and current Secretary for Security tender their answers to SCOPG-related questions asked at the 15 June 1994 and 15 February 1995 sittings of this Council since all SCOPG reports have been destroyed?*

SECRETARY FOR SECURITY: Mr President,

- (a) SCOPG files containing reports and assessments were destroyed over a number of years from the 1980s. Destruction of such files was carried out under the authority of the relevant Branch Secretary or Head of Department. These files were destroyed for record management purposes.

- (b) Government policy provides for the review of classified material. Government files are destroyed for record management purposes when they no longer serve a useful purpose.
- (c) A limited amount of material relating to the SCOPG, principally concerning media questions and answers following its disbandment in the early 1980s, is still in existence. It was on the basis of this material that my predecessor and I answered questions on this subject in this Council on 15 June 1994 and 15 February 1995.

MS ANNA WU: *Has the Secretary made enquiries with the Chief Secretary relating to Paper No. 4 of 78 as SCOPG was answerable to the Chief Secretary's Committee at the time and whether the Secretary is aware of the following assessment made in the reports? I am quoting directly from the reports:*

"Special Branch confirmed that while some pressure groups may be motivated more by self-interest than ultraism, their activities have not generally been subversive and they do not seem to have had the effect of subverting the population so far. But SCOPG has been tasked with examining the pressure groups more critically and does not feel able to see the groups in such a favourable light. It is the potential of pressure groups which is disturbing the possibility of their developing into something more sinister or unleashing forces damaging to the whole community. The activities of pressure groups can encourage a widespread critical and argumentative attitude when knocking the Government is fashionable. In itself not a phenomenon to be afraid of, it nonetheless provides an ideal breeding ground for discontent and trouble-makers while there is always the danger that any group, no matter how innocent and well meaning initially, can be taken over by more unscrupulous elements. Whilst at present the conclusion must be that pressure groups are generally not subversive, the potential for subversion always exists. So far there is no evidence that any of the pressure groups has been taken over by undesirable political factions from either outside or inside Hong Kong but the possibility of such a development cannot be ruled out."

Can the Secretary answer whether he is aware of any discussion relating to this type of assessment and whether he was aware of this particular assessment made and of the document that I identified?

SECRETARY FOR SECURITY: Mr President, since as I mentioned in the my main reply that SCOPG files containing reports and assessments were destroyed over a number of years from the 1980s, I have neither seen nor am I aware of any such piece of paper as quoted by the Honourable Member.

MR SZETO WAH (in Cantonese): *Mr President, will the Administration inform this Council whether the report of the SCOPG contained a statement to the following effect: "The Hong Kong professional Teachers' Union is a major target of communism infiltration. However, as long as the incumbent President is still in office, such kind of infiltration will not succeed easily"?*

SECRETARY FOR SECURITY: Mr President, since as I said in my main reply that SCOPG files containing reports and assessments were destroyed, I am not in a position to either confirm or deny any existence of reports quoted by the Honourable SZETO Wah.

MISS CHRISTINE LOH: *Maybe I can try and ask Mr SZETO Wah's question in another way. I am sure the reason he asked the question is that of course he was referring to himself. There are four Members sitting here right now who, I think, have some relevance to this question — the Honourable Anna WU, myself, Mrs Elsie TU and Mr SZETO Wah. So what I want the Administration to say is, although the files may have been destroyed, what have been done with the information? For example, apart from what Mr SZETO Wah has read out, the same comments are also made of the Government Schools Non-Graduate Teachers' Union, that it is a target of communism infiltration, and also about the Hong Kong Federation of Students. I wonder whether the Secretary can enlighten us what he did with that sort of information?*

SECRETARY FOR SECURITY: Mr President, since the files were destroyed, the information would have been destroyed together with the files.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, I believe if I also ask a related question, the Secretary will once again say that since the files have been destroyed, he cannot answer the question. May I ask those officials who have seen the reports concerned to answer the questions just raised by the Honourable Miss Christine LOH and the Honourable SZETO Wah? Besides, at the present moment, does the Government still have a similar committee to examine the pressure group's activities in Hong Kong? I have been working in the Christian Industrial Committee since 1980. Hence, I might also have been mentioned in the files. May I ask the Government if there is still a secret underground committee to monitor the work of the pressure groups? I hope that these questions can be answered by an government official who has read the files. This is because I believe that the Secretary for Security will only say that since the files have been destroyed, he will not answer the question again.*

PRESIDENT: Well, Mr LEE, under Standing Orders it is up to the Government how it replies. Is there any question you want to ask which can be put to the Secretary?

MR LEE CHEUK-YAN: *I think I have asked the question already. Does the Government still have a similar committee to monitor the activities of the pressure groups named in SCOPG which was set up in the 1980s? We hope that the Secretary can enlighten us on whether it is still in existence?*

SECRETARY FOR SECURITY: Mr President, SCOPG was disbanded in the early 1980s. No such group or committee now exists.

MRS ELSIE TU: *Mr President, I have a feeling I am going to get a non-answer but I will ask the question just the same. As I still have a copy of some of the reports referred to in the question by Ms Anna WU, may I ask the Secretary to confirm that SCOPG's real purpose was to investigate potentially subversive or communist elements and to discredit and withhold government subventions where relevant from those under suspicion of such activities?*

SECRETARY FOR SECURITY: Mr President, in my answer to this Council on 15 February this year, I said that SCOPG's purpose was to report to and advise the Government on social and political trends and developments in Hong Kong at the time.

MISS EMILY LAU (in Cantonese): *Mr President, I would like to follow up the question raised by the Honourable LEE Cheuk-yan. Although the past SCOPG was disbanded, there are still a lot of pressure groups existing in Hong Kong nowadays. How does the Government monitor the activities of these pressure groups? Is the monitoring done by a centralized committee or is it done by various policy branches and departments concerned? Will it be the practice to submit a report to the Chief Secretary or the Governor on a regular basis?*

SECRETARY FOR SECURITY: Mr President, SCOPG was established in 1977 to report to and advise the Government on social and political trends and developments in Hong Kong. It was disbanded in 1982. It was disbanded at a time when the range of channels and contacts which the Government had with the community, with councils, with boards and committees and with different groups, whether they are called pressure groups or otherwise, had considerably expanded. These degrees of contact between the Government, whether they be government departments or branches, with political groups, with all sorts of community organizations, have of course expanded even further in the years since the so-called SCOPG was disbanded. There clearly is no need for any centralized committee for the purpose of which SCOPG was created at the time.

MR LEE WING-TAT (in Cantonese): *Mr President, the purpose of the SCOPG was obviously not simply to collect information in regard to the pressure groups, but to monitor or even to influence their activities in the community. The purpose was political. In the second paragraph of the Secretary's main reply, he mentioned that government files were destroyed when they no longer served a useful purpose, and the destruction of such files was carried out under the authority of an official at the directorate level. Does the statement "no longer serve a useful purpose" in the second paragraph of the main reply mean that according to the present policy, the Government will no longer consider setting up an organization in the central authority or in individual department to monitor the groups in the community and to influence their activities? Has the Executive Council been explained about the destruction of such files? And are there copies of these reports in London?*

SECRETARY FOR SECURITY: Mr President, the only answer I can give is the one which I have given in part (b) of my main answer, which is that government files were destroyed for record management purposes when they no longer serve a useful purpose. As I have just explained in answer to another question by another Honourable Member, clearly the channels for communication between the public, between the Government and members of the public and groups in the community are so wide at the present time that it was felt that no longer would any group of this sort need to be established.

MR MARTIN LEE: *Mr President, the reply says that the destruction of such files was carried out under the authority of the relevant Branch Secretary or Head of Department. The question is, Mr President, who actually directed these Secretaries or Heads of Departments to destroy these files and was a direction given so as to spare the Government the embarrassment of answering questions of this kind?*

SECRETARY FOR SECURITY: Well, the answer is the one I have given. The destruction of these files was authorized by the authority of the relevant Branch Secretary or Head of Department, as is normally the case.

MR JAMES TO (in Cantonese): *Mr President, can the Secretary for Security or other government officials confirm whether there was such a passage in the report of the SCOPG: The Society for Community Organization Limited (SOCO) does not have any target of subversion. However, since it constantly criticizes the Government publicly, the accumulative effect of which will damage the credibility of the Government. After all, this organization is only led by a small group of people. What is most regrettable is that the SOCO is not a subvented organization. Thus, it may be very difficult for the Government to control this organization through subvention means? May I ask the Secretary whether there was a passage in the report of the SCOPG bearing such content?*

SECRETARY FOR SECURITY: Mr President, I do not have a copy of the report or the passage quoted by the Honourable James TO.

Bail Jumping

2. MR SIMON IP asked: *Will the Government inform this Council of the causes of the substantial increase over the past four years in the number of defendants who have absconded after being released on bail and what steps will be taken in future to ensure that defendants do not abscond?*

SECRETARY FOR SECURITY: Mr President, our computer system only started collecting data on court bail from the second quarter of 1992. The figures show that the number of persons who jumped bail has increased from 1 349 in 1992-93 to 1 814 in 1993-94, an increase of about 34%. However, we have to put the figures in context. On average, more than 22 000 defendants are granted court bail each year. The proportion of defendants who jumped bail is relatively small.

There is no comprehensive study on the causes of defendants who choose to abscond. The most likely reasons are that they want to avoid attending court for trial and to avoid, or at least delay, facing the penalty if convicted by the court.

The police and other law enforcement agencies have been diligent in tracking down absconders. The figures on the number of persons who jumped court bail and were eventually arrested and sentenced are 962 for the year ending 30 June 1993 and 1 548 for the year ending 30 June 1994. The detection rate is higher than 70%. The Criminal Procedure (Amendment) Ordinance, which was passed by this Council and enacted in June last year, makes it a criminal offence for a person to abscond after being released on bail. If convicted, the offender is liable on summary conviction to a maximum fine of \$75,000 and to imprisonment for a maximum period of six months, and on conviction upon indictment to a fine of any amount and to imprisonment for a maximum period of 12 months. The new provisions will soon take effect when the rules of court are finalized by the Judiciary and passed by this Council. They will provide a good deterrence against potential absconders.

MR SIMON IP: *Are the police and other law enforcement agencies concerned about the rise in the number of persons jumping bail, particularly in respect of serious crimes; and whether those concerns have been communicated to the Judiciary?*

SECRETARY FOR SECURITY: I think, Mr President, that the concerns that we all felt on the number of people jumping bail have been taken into account in the amendments to the laws that I have just described. I hope that when we are finally able to put the law into effect, we will see a better situation prevailing. We will hope to do that as soon as possible.

PRESIDENT: Yes, Mr IP?

MR SIMON IP: *Mr President, the second part of my question has not been answered. Have those concerns been communicated to the Judiciary?*

SECRETARY FOR SECURITY: I am sure that the Judiciary is aware of the concerns of the community on this and on a number or range of other issues.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, I was very much shocked by what the Secretary for Security said in his reply. There were nearly 10%, that is, 1 814 persons who jumped bail within a 12-month period in 1993-94, and the Secretary said it was only a relatively small proportion. As everybody knows, the progress of work of the Joint Liaison Group has been slow. In the signing of extradition agreements with other territories, the progress has been that so far only five countries have signed such agreements with Hong Kong. This only amounts to 6% of some 80 countries. Which have existing extradition agreements with Hong Kong. I would say this is a rather small figure. Will the Secretary inform this Council whether it is concerned that after 1997 defendants will jump bail and choose to escape to those countries which have not signed extradition agreements with Hong Kong? Has the Administration got any measures to ensure that defendants mentioned above will not get away with their crimes by so escaping?*

SECRETARY FOR SECURITY: Mr President, I made those comments not only in relation to the number of people who absconded against the number of people who were charged. I made those remarks also in light of the fact that over 70% of them were subsequently rearrested. The best means of ensuring that we can maximize as far as possible the chance of rearresting those who jump bail or abscond is of course to ensure that they do not leave Hong Kong. For that purpose, one of the actions subsequent to an abscondment is that they will be put on the Immigration Stop List.

As regards the question of extradition arrangements with other territories, obviously it is in our interest to ensure that a sufficient number of extradition agreements are concluded with other countries, so as to limit the opportunity for absconders to go to some other places where there are no extradition agreements.

MRS MIRIAM LAU (in Cantonese): *Will the Secretary inform this Council whether the surge in the number of cases involving bail jumping is directly or indirectly related to the passing of the Bill of Rights Ordinance (BORO)? If the answer is positive, how will the Administration deal with the situation, given that the BORO must be observed?*

SECRETARY FOR SECURITY: Mr President, I believe that before the Bill of Rights Ordinance was enacted in June 1991, it could be said that a right to bail already existed in Hong Kong in a *de facto* fashion. Since the Bill of Rights Ordinance was enacted, it cannot be demonstrated that its enactment has had any practical impact on the way in which decisions in respect of bail are made by the courts.

MR CHIM PUI-CHUNG (in Cantonese): *There is no extradition agreement between Hong Kong and Taiwan. If defendants who jump bail escape to Taiwan, there is nothing the Administration can do. Now that 1997 is approaching, will Administration consider reaching an extradition agreement with Taiwan so that economic criminals will not choose to abscond to Taiwan?*

PRESIDENT: We are straying a bit, Secretary.

SECRETARY FOR SECURITY: Mr President, our current main preoccupation is to ensure that we have the number of required extradition agreements that we wish to have. As regards the question of Taiwan, I am sure that in due course it will be looked at by the appropriate authorities.

MR JIMMY MCGREGOR: *Mr President, can the Secretary say whether any absconders, and if so how many, were facing charges relating to serious crimes involving violence? If so, can the Secretary say whether the government prosecutors opposed bail in such cases and is such opposition normally expressed by prosecutors in such cases?*

SECRETARY FOR SECURITY: As far as my information goes, in 1993-94 about 11% of the number of persons who jumped bail were related to violent crimes. There are, of course, higher figures in respect of other minor offences. As regards the question of what the prosecutors do in front of the court, obviously where the prosecutors believe that there is good reason to oppose bail, the prosecutor or the police officer will certainly make their case known. But ultimately, decisions on whether bail should be granted rest with the courts.

MR JAMES TO (in Cantonese): *Mr President, I believe that arresting people who have jumped bail may have a great deterrent effect. According to the Administration's estimate, in the two periods 1992-93 and 1993-94, how many persons who have jumped bail have escaped to foreign countries and are still at large, and which countries will co-operate with the Interpol Bureau of Hong Kong by issuing warrants of arrests against such persons so that Hong Kong Police may have a chance to bring them back to Hong Kong for trial?*

SECRETARY FOR SECURITY: Mr President, I do not have the statistics on this question.

PRESIDENT: Yes, Mr TO?

MR JAMES TO (in Cantonese): *Will the Secretary give us a written reply?*

SECRETARY FOR SECURITY: I will see whether such statistics are available. Obviously, it is not all the time the case that if somebody absconds and has by illegal means gone to another territory that we would know about it; we may not know.

PRESIDENT: Yes, Mr TO?

MR JAMES TO (in Cantonese): *Mr President, what I meant to ask was whether the Criminal Intelligence Bureau has any information to prove that absconders who are still at large are believed to have left Hong Kong for other places. Will the relevant department issue notices to Interpol for co-operation to arrest or order the arrest of those who have absconded to other countries?*

SECRETARY FOR SECURITY: Mr President, I will see what information can be supplied. (Annex I)

MR SIMON IP: *Can the Secretary tell us whether there is a significant number of absconders who have absconded to China from where they cannot be returned under any formal arrangement?*

SECRETARY FOR SECURITY: In looking further at what additional information that I may be able to supply in answer to the Honourable James TO's question, I will see whether there are statistics in that regard. (Annex II)

MR JIMMY MCGREGOR: *Well, I wanted elucidation, Mr President, because I asked whether, in every case where violence was concerned in serious crimes, the prosecution would in fact oppose any permission for bail. And that question was not answered, Mr President.*

SECRETARY FOR SECURITY: Mr President, where the prosecutor or the police officer concerned believes that there are good grounds for opposing bail, we do.

Implementation of the Joint Declaration

3. MISS EMILY LAU asked: *In his speech to the Foreign Correspondents Club earlier this year, Governor Chris PATTEN said, "Each day as 1997 comes closer, individuals and businesses quite naturally are looking not to Britain, not to the Governor of Hong Kong, but to China, as the future sovereign, to provide reassurances, and indeed concrete evidence that the principles enshrined in the Joint Declaration will be upheld and implemented in the future." This view was repeated by the Foreign Secretary, Mr Douglas HURD, during a House of Commons debate on 27 April this year. In this connection, will the Administration inform this Council whether:*

- (a) *it will seek elucidation to ascertain how Britain who, as a co-signatory to the Joint Declaration, will ensure that the accord will be implemented;*
- (b) *and whether the Administration will ask the British Government to reassure the people of the colony that it remains committed to ensuring the implementation of the Joint Declaration?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, Britain's role in implementing the Joint Declaration is straightforward. The Joint Declaration is a treaty which creates rights and obligations under international law. Those obligations are binding upon Britain and China and must be performed by them in good faith. Britain implements the obligations which it has assumed under the Joint Declaration through a variety of diplomatic channels. In particular, it will continue to conduct consultations with China through the Joint Liaison Group (JLG) until 1 January 2000 in accordance with the Joint Declaration. Thereafter, Britain will continue to have a responsibility to do all it can to ensure that the treaty is implemented fully and faithfully. We have full confidence that Britain will use every possible avenue to do so.

As for the second part of the question, the British Government has made clear many times that Britain is fully committed to discharging its obligations under the Joint Declaration. For example, during the House of Commons

debate on 27 April this year, referred to by Miss LAU, Mr HURD said that "the British Government want to ensure the smoothest possible transition for Hong Kong and the fulfilment by both sides of what was undertaken in the Joint Declaration."

I can assure Members that the Hong Kong Government continues to keep the British Government fully informed of the feelings in Hong Kong on transitional issues. We will, of course, continue to relay to the British Government the concerns of Honourable Members and the community about Britain's responsibilities.

I can also assure Members that the Hong Kong Government plays its part in the implementation of the Joint Declaration. I am a Member of the JLG and the Hong Kong Government contributes significantly to the work of the JLG and in other Sino-British negotiations on Hong Kong.

Regarding the preamble to Miss LAU's question, Members will appreciate that while both China and Britain are party to the Joint Declaration, and both therefore have a responsibility as sovereign governments to ensure its implementation, the Joint Declaration imposes different obligations on the two parties. Thus, Britain has an obligation to be responsible for the administration of Hong Kong up to 30 June 1997 and China has an obligation to follow the basic policies in respect of Hong Kong for 50 years after 1 July 1997. People will quite naturally look to the party that has a particular obligation under the Joint Declaration to deliver on that promise. People, therefore, look to Britain to ensure that Hong Kong is administered properly up to 30 June 1997 and they look to China for evidence that the policies to which it has committed itself will apply in Hong Kong after 1 July 1997.

I have said, the Joint Declaration is a binding, international agreement. It is registered with the United Nations. The British Government has a responsibility to do all that it can to ensure that China lives up to the undertakings set out in the Joint Declaration. This is something to which the British Government is committed.

MISS EMILY LAU (in Cantonese): *Mr President, the speeches of Governor Christ PATTEN and Foreign Secretary Douglas HURD have given people of Hong Kong a clear message that the United Kingdom wants to shrink its responsibility in regard to post-1997 Hong Kong and that after 1997 the fate of the people of Hong Kong will entirely be controlled in the hands of the Beijing government. Under such difficult circumstances, will the Government give us concrete proof that it has confidence to commit itself to the implementation of the Joint Declaration together with China? More importantly, will it assure the people of Hong Kong that it will, with utmost efforts, lobby the British to shoulder its responsibilities so that if one day in the future in case the people of Hong Kong happen to encounter misfortunes the British will come to their rescue?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, I believe my main answer actually tackles the follow-up questions raised by Miss LAU, but let me again just very briefly summarize some of the points made in that answer in response to the specific issues raised. Obviously the JLG is the main forum through which Britain and China handle the transitional issues, and the JLG has in the past 10 years or so made considerable progress in the smooth transition of Hong Kong. Progress is still slow. We still want a lot quicker progress in the JLG, but one must not ignore the fact that there have been considerable achievements through the JLG discussions in ensuring a smooth transition of Hong Kong in accordance with the provisions in the Joint Declaration.

As regards this Government's representation to Britain, I think Honourable Members would certainly recall that time and again this Government has repeatedly referred to Her Majesty's Government the views and feelings expressed by Honourable Members on this subject, either in this Chamber or elsewhere.

MR MARTIN LEE: *Mr President, on 4 May last year, this Council passed without dissent my motion which, among other things, regretted the numerous breaches and misinterpretations of the Joint Declaration by both the British and the Chinese Governments since 1984. What has the Hong Kong Government done, repeat done, about that motion, which even the three government officials in this Council did not vote against?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, insofar as the views expressed by Members during that debate are concerned, obviously the Government has heard and listened to Members' views and in response, we have already also expressed the Government's position on this subject. We have indicated how far we have been taking the subject of the preparation for the transition forward and since then we have been continuing in that vein. I mentioned the JLG and obviously that is a forum in which the Hong Kong Government plays its full part and contributes fully to the work done through that forum to implement the Joint Declaration.

PRESIDENT: Yes, Mr LEE?

MR MARTIN LEE: *What has the Government done about the motion? Have you eaten it or what?*

PRESIDENT: I think, Mr LEE, that was out of order.

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, we have noted the motion as passed by this Council.

MR LEE CHEUK-YAN (in Cantonese): *Mr President, it is said in the main reply that the Joint Declaration is a binding, international agreement registered in the United Nations. But I find the current Basic Law, the composition of the Legislative Council and the election arrangements under the functional constituencies have all contravened on the part of formation of the Legislative Council as stipulated in the Joint Declaration. Since the Joint Declaration is registered in the United Nations, are there any channels through which the British Government, the Hong Kong Government, and the people of Hong Kong can lodge a complaint if they find that China and the British have contravened the Joint Declaration?*

PRESIDENT: You are really asking for an opinion on an opinion, Mr LEE, I cannot allow that.

MS ANNA WU: *I refer to paragraph (5) of the Secretary's response in which he stated that the Joint Declaration imposes different obligations on the two parties, and he went on to say that people will quite naturally look to the party that has a particular obligation under the Joint Declaration to deliver on that promise. It is not a case of you will have breakfast and I will have lunch and if you do not eat breakfast that will be okay because you will not affect me from eating lunch. It is a case of you will cook and I will lay out the table, we will eat together and we will clean up together afterwards. Is the future application of the International Covenants on Civil and Political Rights and on Social, Economic and Cultural Rights a joint obligation on the part of both sovereign parties?*

PRESIDENT: I am sorry, how does that relate to the main question and answer, Ms WU?

MS ANNA WU: *Mr President, in paragraph (5), it is suggested that there are different obligations assumed by the different sovereign parties and therefore it would be difficult to consider that there are joint obligations assumed by both parties. Hence my question, that is, would the Hong Kong Government regard the future implementation of the two Covenants as joint obligations between the two sovereign masters?*

PRESIDENT: Yes, the question went to the Joint Declaration. I do not think your question directly relates to it although it fastens on a point made in the main answer, Ms WU. I cannot allow it, I am afraid.

MR CHEUNG MAN-KWONG (in Cantonese): *Mr President, the Governor Mr Christ PATTEN has repeatedly stated that the British Government will bear a moral responsibility to the people of Hong Kong even after 1992. Literally, moral responsibility does not necessarily include substantive responsibility. The Joint Declaration stipulates that the Sino-British Joint Liaison Group will continue functioning until 1 January 2001 - a point mentioned in the main reply, too. However, since the Sino-British Joint Liaison Group is virtually "defunct" by now, will the Secretary for Constitutional Affairs inform this Council what specific measures will the Government recommend to the British Government to ensure that the Sino-British Joint Liaison Group will function properly from July 1997 onwards until 2001?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, I mentioned that notwithstanding the slow progress in the JLG, the JLG obviously has achieved considerable progress in the past 10 years or so and we certainly continue to look forward to the JLG delivering more of the work that is now under deliberation in that forum. And as Mr CHEUNG pointed out, the Joint Declaration provides that the JLG would continue in being from 30 June 1997 to 1 January 2000. So I would expect the JLG to continue to operate beyond that period and I would expect Britain to continue to play its full role on the JLG up to the year 2000.

DR LEONG CHE-HUNG: *The spirit of this question is on British responsibility and as the Secretary's reply, in particular paragraph (3), has stressed repeatedly that the Hong Kong Administration will continue to relay to the British Government on the Hong Kong community's concern on British responsibility. In this context, could the Administration inform this Council of the effect that such relay has brought to the issues, for example, of British Citizenship for the ethnic Hong Kong minorities and the war widows and what responsibility the British Government has on Hong Kong residents who are naturalized, and I repeat the word naturalized, British subjects — people who have sworn allegiance to the Queen and have been formally admitted to British Citizenship as British subjects?*

PRESIDENT: Yes, that is a very large question based on the Joint Declaration, Dr LEONG. I think you will need to persuade me it is within the scope of the main answer.

DR LEONG CHE-HUNG: *Mr President, there are two issues. First of all, the spirit of the question is on British responsibility, and I thought that was British responsibility. Second, the Governor said that Britain will still continue to have responsibility for Hong Kong people and that obviously is British responsibility for Hong Kong people.*

PRESIDENT: I think you have gone beyond the scope of the main answer.

MR FRED LI (in Cantonese): *Mr President, paragraph six of the main reply says that the Joint Declaration is a binding, international agreement, and the British Government has a responsibility to do all that it can to ensure that China lives up to the undertakings set out in the Joint Declaration. The Joint Declaration states clearly that matters relating to the transition period should be discussed by the Sino-British Joint Liaison Group, but now the Chinese side has set up a Preliminary Working Committee which often unofficially, as they called it, talk about matters relating to the transition period with officials of the Hong Kong Government. For example, even the Budget had to be passed to the Preliminary Working Group beforehand. Under these circumstances, the progress of the Sino-British Joint Liaison Group has slowed down substantially, and many issues failed to come to a conclusion, such as that of the Court of Final Appeal and the financial agreement for the Airport projects. Has the Chinese Government already contravened the Joint Declaration as far as the functions of the Sino-British Joint Liaison Group is concerned? If yes, how would the British Government rectify this mistake?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS: Mr President, the Chinese Government has publicly and constantly stated that it takes the solemn commitments in the Joint Declaration very seriously and it will fulfil its obligation fully as provided under the Joint Declaration. As regards the JLG, I have stressed several times that notwithstanding the slow progress that we occasionally face in the JLG on some specific issues, one must accept that the JLG has made considerable progress and achievements in the past and there is no reason to suspect that we should not, with goodwill on both sides, continue to make good progress. On the Hong Kong Government's part, on the British Government's part, we have done all we could and will continue to do so in making adequate preparations to ensure smooth transition and to ensure that the JLG forum is made the best use of.

Wastage of Therapists and Clinical Psychologists

4. MR ERIC LI asked (in Cantonese): *Mr President, will the Government inform this Council of:*

- (a) *the respective wastage rates of physiotherapists, speech therapists, clinical psychologists and occupational therapists in government departments and subvented agencies in the past three years; and*
- (b) *the effect of such wastage on the government departments and agencies concerned, and whether such wastage has brought about a serious shortage of manpower?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, let me start by defining "wastage rate" for the purpose of my answer. The figures I shall refer to represent the number of staff who have left posts in any given Department during a calendar year expressed as a percentage of the average strength of such posts in that year.

On the basis of this definition, the wastage rates of the following posts are as follows:

- (i) In the Department of Health, which has only a relatively small establishment of such allied health workers, there are four posts of physiotherapists. The wastage rate of physiotherapists was 66.7% in 1992, but since then there has been no wastage. There has been no wastage of speech therapists between 1992-94. The only wastage rate for clinical psychologists was in 1994 — 36.4%. For occupational therapists, the wastage rate was 28.6% in 1992 and 1993. There was, however, no wastage in 1994.
- (ii) In the Social Welfare Department, there are no speech therapists posts. As for the other three disciplines (occupational therapists, physiotherapists and clinical psychologists), there has been no wastage over the past three years.
- (iii) The Education Department has eight posts for speech therapists. There was no wastage in 1992. The wastage rates for 1993 and 1994 were 25% and 33.3% respectively.
- (iv) In the subvented sector, as we do not know the number of those leaving their jobs nor the number of new recruits for physiotherapist, speech therapist and occupational therapist posts, it is not possible to work out the wastage rate. As for clinical psychologists, the wastage rate was 12.5% in 1992, 40% in 1993 and 42% in 1994.

Turning to the second part of the question, it is clear that the wastage rate is not a problem for the Social Welfare Department. While the Health and Education Departments have wastage rates in some of these professions, only a relatively small number of posts are involved and the wastage has caused no serious operational problems.

A general shortage of physiotherapists, clinical psychologists, occupational therapists and speech therapists is causing concern in the provision of services requiring these skills especially in the subvented welfare sector. Wastage is only one factor contributing to this shortage.

I have established a Working Group on Allied Health Personnel in my Branch to examine the problem of shortfalls in these professions and to propose solutions. The Group has started its work already by studying the shortage of clinical psychologists. It will move on to study the other disciplines concerned as quickly as possible.

MR ERIC LI (in Cantonese): *Back in 1992 when the Green Paper on Rehabilitation Services was published, the Government admitted clearly that there was a shortage in several categories of therapists. I also know that this has happened in non-government organizations where the remuneration conditions are less favourable. But recently, the situation has increasingly deteriorated. The organizations concerned have repeatedly reflected their situation to the Government. To my great disappointment, the Government, citing the groups that no solid figures are available, refuses to admit openly that the manpower shortage has seriously affected the rehabilitation services. The working group, which the Government promised to set up as early as three years ago in paragraph 13.7 of the Green Paper, did not start working until recently and it has only reviewed the shortage problem of clinical psychologists. Would the Government inform this Council whether over the past three years, other than the recent establishment of the working group, the Government has taken any solid measures to understand and alleviate the manpower shortage of these non-governmental organizations? And in the White Paper to be released in May this year, will the Government set a solid schedule for the completion of the work of the working group?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the Honourable Member referred to a working group which was set up in 1992 to explore ways to improve the situation of three particular professions, that is, the occupational therapists, physiotherapists and speech therapists in the rehabilitation field. The working group comprises representatives from non-government organizations (NGOs), the Hong Kong Council of Social Service and concerned departments and it produced a number of recommendations. These included recognition of relevant working experience for the purpose of granting incremental credits, direct recruitment of Therapists (Class 1) and creation of agency based senior therapists posts. These recommendations have either been implemented or are being taken forward. Both the Social Welfare Department and the Education Department have since 1992 recognized relevant local and overseas experience of the three professions for the purpose of granting incremental credits and NGOs can now also proceed with direct recruitment of these grades at the senior ranks.

DR YEUNG SUM (in Cantonese): *I am very glad to hear that the Government will review the manpower shortage problem of various therapists but I hope that upon its review, the Government will take note of the fact that the recruitment conditions of non-government organizations are far less favourable*

than those of the Hospital Authority (HA). Therefore, if the problem is tackled only by increasing the manpower, the result could be that these personnel may transfer to the HA and non-government organizations will continue to suffer from the shortfall. I would like to ask whether the Government will conduct an in-depth study in this respect?

SECRETARY FOR HEALTH AND WELFARE: Mr President, the Working Group on Allied Health Personnel, which has been set up in the Branch, will look at the shortfall as well as other problems relating to these four professions in both the government departments and subvented non-government organizations and devise measures to address them. In doing so, it will also look at both the total demand for such posts, the supply of such people and also the remuneration packages of both government and non-government bodies.

MR TIK CHI-YUEN (in Cantonese): *In the third point of the Secretary's reply, she mentioned that the wastage rate of speech therapists of the Education Department has kept on rising for the last three years. Will the Government inform this Council the reason for the rising wastage and whether there is a solid resolution? If the relevant policy secretary is not present here today, will he/she provide a written reply for this Council?*

SECRETARY FOR HEALTH AND WELFARE: I will provide a written reply. (Annex III)

DR LEONG CHE-HUNG: *From the data and statistics given by the Secretary, the shortfall of clinical psychologists is really alarming. In the Department of Health, it is something like 36%; Education Department, 33.3%; and the subvented sector, 42% in 1994 alone. Whilst the Working Party is starting its work, could the Secretary provide us with some form of short-term or immediate contingency plan? And in the same context, will the Working Group also look at the shortfall of the private sector as it must be the responsibility of a good government to ensure that adequate manpower needs are met with in the whole community in total?*

SECRETARY FOR HEALTH AND WELFARE: The Working Group on Allied Health Personnel will start with looking at both the government sector and the non-government subvented sector. I think that is our first priority. When that has been done, we will certainly try to look at the shortage in the private sector as well.

PRESIDENT: Yes, Dr LEONG?

DR LEONG CHE-HUNG: *My first question was not answered, which is, whether there are any short-term or immediate contingency plan for clinical psychologists?*

SECRETARY FOR HEALTH AND WELFARE: There are no short-term measures that will address this problem of shortage of people. We need to train these people. One of the things that the Working Group has been examining is to try to encourage the tertiary institutions to increase their training of clinical psychologists, but even this will take some time.

MR PETER WONG: *Can the Secretary please confirm that the wastage of therapists in the subvented sector has been caused by recruitment from the Hospital Authority where the remuneration package and prospects are considered to be better, and does the Administration have any policy relating to the Hospital Authority offering services similar to that of the subvented sector but at a much higher cost?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, to a certain extent, it is true that there is movement from the non-governmental welfare organizations to the Hospital Authority. But the main problem, according to our preliminary findings, appears to be an overall shortage of supply of these professions in the market. This is a result of the rapid expansion of welfare services in recent years. It is significant to note also that there has been a fairly high degree of wastage, also within the Hospital Authority as far as these grades are concerned. This would suggest that we should not jump to conclusions about the reasons for the wastage from these professions.

As for the Hospital Authority moving into areas which were previously provided by non-governmental organizations, this is an area which we will have to study very carefully. There is a lot of work which can be done by both the Hospital Authority and non-governmental welfare agencies and we will have to assess where the best place is for it to be done.

MR MICHAEL HO (in Cantonese): *Mr President, from the Secretary's reply, we learn that the Government does not have the information on subvented organizations. According to the information I got from my colleagues from the Hong Kong Association of Occupational Therapists and the Hong Kong Physiotherapy Association, the wastage resulted from personnel transferring from subvented organizations to the HA is very high and has already affected the services concerned. Since the subvented agencies are under the supervision of the Social Welfare Department, how come the Health and Welfare Branch*

does not have information of higher accuracy to show what the difficulties are being experienced by the subvented agencies in their work? And can the Government inform this Council what services of the subvented agencies are being duplicated by the HA and what the Government's policy is?

SECRETARY FOR HEALTH AND WELFARE: Mr President, it is not possible to provide the wastage rates of the subvented sector. It is not true that we do not have information on the shortage and manpower supply of subvented sectors. Let me give you some examples. In the physiotherapists rank in subvented agencies, there are altogether 75 posts. There is at present a current shortage of 34. In the speech therapists, the subvented sector has 17 posts and a current shortage of three. In the clinical psychologists, there is at present 10 posts in the subvented sector and a shortfall of four. In the occupational therapists in the subvented sector, the number of posts is 39 and there is currently no shortage in that profession.

As to the second part of the question concerning the possible duplication of service provided by the Hospital Authority and the subvented welfare agencies, this is an area which I previously said we will have to look into and decide which is the best agency to provide the service.

MR FRED LI (in Cantonese): *Mr President, the Secretary did not provide the relevant number of vacancies in the HA. I want to point out that the HA has employed enough clinical psychologists and there is actually no shortage. And the volunteer organizations mentioned just now have only six of their 10 vacancies filled. The problem is some positions cannot have their vacancies filled for over a year which is a fact. Why does the Government have to wait three years to bring up these facts today and then let a working group study them after all this time? Can the Government explain why it has to spend three years' time to realize this obvious situation?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, we need very reliable figures in order to plan what we need to do in the supply of these four allied health personnel, particularly physiotherapists, speech therapists, clinical psychologists and occupational therapists. We want reliable figures in order to persuade the tertiary institutions to increase the intake of students for these particular courses. In respect of the past few years, what we have done has been concentrated on the supply and demand of these professions in the rehabilitation field only. I think we have to look at the requirements of the Hong Kong Government, non-subvented agencies and the Hospital Authority as a whole before we can come up with a solution.

Ad Valorem Duty on Alcohol

5. MR HOWARD YOUNG asked (in Cantonese): *Will the Government inform this Council of the total amount of alcohol duty collected by the Government for the months from April to December 1994 as compared with that in the corresponding period in 1993 before the new system of ad valorem duty was implemented?*

SECRETARY FOR THE TREASURY: Mr President, revenue collected from alcohol duty amounted to \$673 million in the period April to December 1994, and \$905 million in the same period in 1993.

MR HOWARD YOUNG (in Cantonese): *Mr President, the reply furnished by the Secretary is even shorter than my original question but my supplementary question may be even longer than the combined length of the main question and reply. Will that be construed as conforming to the literal meaning of the Chinese saying: "drawing on the long (strong points) to make up for the short (weak points)"?*

Mr President, when lobbying for our support to amend the Ordinance that sought to reform the alcoholic duty system, the Government repeatedly stated that the system was revenue-neutral, that is, it would neither increase nor decrease government revenue. However, the Secretary's reply obviously shows that the revenue has been reduced by \$200 million, representing a plunge of over 25%. At the same time, I have received a lot of complaints from hotels that tourists visiting Hong Kong have to consume wine at prices higher than those in neighbouring countries. This will undermine the image of Hong Kong as a tourist spot because the tourists have to pay more than before. Can the Government inform this Council the reasons behind the awkward phenomenon of revenue reduction? I recall that during the debate over this issue in this Council, some Members warned that the Government's adoption of such a system would provide impetus for smuggling, thereby reducing government revenue. Some Members also foretold that the new duty system was not revenue-neutral because the new system would subject some people to heavier duty burden. While hotels have obviously been subjected to heavier duty burden, who have got their duty reduced? If the current system is lopsided, shall we regard the new system as revenue-neutral? Can the Government inform us the reasons for the reduction in revenue?

SECRETARY FOR THE TREASURY: Mr President, I shall try to provide a somewhat longer answer this time.

Yes, when we decided on the new *ad valorem* system it was intended to be revenue-neutral, but that was on the basis of the market conditions prevailing at the time. Obviously with hindsight, we have now learnt that the changes in the

duty system have led to changes in the market and as a result we have got this reduction in revenue. If I may provide some additional information about the make-up of this reduction. In fact, of the \$232 million reduction in revenue, about 70%, \$162 million is attributable to reduced duty from beer and I have to point out that insofar as distilled wines are concerned, there was only a minimal reduction of \$2 million in the period concerned.

MR SIMON IP: *Is the Secretary able to say whether in fact the measures introduced last year have increased smuggling of alcohol?*

SECRETARY FOR THE TREASURY: Yes, Mr President, we have in fact asked the Customs and Excise Department to pay special attention to this, and the information we have got is that there is no evidence of increased smuggling and also, if I may say so, insofar as fine wines are concerned, they do not keep well in smuggling conditions.

MR PETER WONG: *I am glad that the Secretary has confirmed that some of our fellow Members have been increasing their consumption of fine wines.*

Mr President, what are the estimated leakages of alcohol duty for those two respective periods?

SECRETARY FOR THE TREASURY: Mr President, it is not very clear to me what Mr WONG meant by leakages in those two respective periods. Perhaps Mr WONG could elaborate?

PRESIDENT: Mr WONG?

MR PETER WONG: *It is unlikely that the alcohol evaporated and it is really just how much of the alcohol which should have been paid but either had been smuggled into Hong Kong or just not been declared?*

SECRETARY FOR THE TREASURY: Mr President, since the introduction of the new system we have detected only two cases involving commercial smuggling. The Customs and Excise Department seized about 160 litres of liqueur. This contrasts with the three cases with the total seizure of 1 600 litres of liqueur in 1993-94.

MR CHIM PUI-CHUNG (in Cantonese): *Mr President, if we take into account inflation, the minimum reduction of government revenue since the introduction of the new alcohol duty system might be in the region of 35%. In view of the drastic reduction in revenue, will the Government consider re-assessing the alcoholic duty system in the coming year so that a proper balance of interests can be struck? We have received a lot of complaints against the inequity inherent in the current system of assessing alcoholic duty. Can the Government categorically furnish us with a reply?*

SECRETARY FOR THE TREASURY: Mr President, it is not for me to preempt the Financial Secretary's consideration of budget proposals in the coming year, but I can confirm that we will continue to monitor revenue yield from this source.

MR HENRY TANG: *Mr President, first I would like to declare an interest. I am an importer of wine. Secondly, I also wish to make a confession that I rather like the stuff.*

In view of the lower revenue collected, let me ask this question in a more easy way for the Secretary to answer. Will the Secretary consider raising rates even further to make up for the revenue lost or will he go back to the old system just to collect more revenue?

SECRETARY FOR THE TREASURY: Mr President, as I have just responded to an earlier question, it is not for me to try to pre-empt the Financial Secretary's budget proposals at this point in time and therefore I can only repeat that we will monitor the situation very carefully.

DR HUANG CHEN-YA (in Cantonese): *Mr President, the Government has got a lot of questions from alcohol lovers. I just want to raise a point, that is, the general public in fact have benefited from the duty reduction measures by paying less for general alcoholic beverages. The real problem lies in the fact that on many occasions, the traders do not really charge less from consumers after the duty on the products has been reduced. Can the Government inform this Council whether measures will be adopted to discourage the traders from reaping unreasonably windfall profits, so that the benefits of duty reduction can be passed onto the consumers? If the Government can do so, alcohol lovers will, I believe, no longer oppose the duty system proposed by the Government.*

SECRETARY FOR THE TREASURY: Mr President, it is true that some manufacturers and traders have passed the benefits of a reduced duty onto consumers while others have not. We have in fact been in discussion with the Consumer Council and they have published previously information concerning

the prices of various products following the duty reduction. I am quite sure that the consumers will make their wise choice as to which products to buy.

MR JIMMY MCGREGOR: *Mr President, would the Secretary indicate whether the loss of beer revenue is due to the importation of very much cheaper beer from Korea and some other places as opposed to importation of the more expensive brands? And how has this affected the operation of the Carlsberg and San Miguel plants in Hong Kong? Have they complained about seriously reduced local sales?*

SECRETARY FOR THE TREASURY: Mr President, I do not have a differentiation between the imports from various sources but insofar as the local breweries are concerned, the information I have is that Carlsberg has marginally increased its market share while San Miguel has a reduced market share as a result.

MR HOWARD YOUNG: *Mr President, the Government seems to be in a generous mood, not minding this reduction in revenue and I personally do not mind either. Although the Secretary cannot pre-empt the Financial Secretary's budget, will he undertake to pass on to whoever makes up that budget that Members, such as the Liberal Party, did propose to put a cap on the higher value wines so that everyone can benefit to some extent or perhaps some people will not be unduly hit too hard by the new system?*

SECRETARY FOR THE TREASURY: Mr President, we have in fact considered the proposal for a cap on the maximum duty payable and our conclusion is that we cannot support such a cap. The reasons are manifold. First, only a small minority of high value, high quality products are affected. Second, it would undermine the logic of the new system which is based on the principle of vertical equity. Third, it would be widely seen by the public as an unjustified concession to those who can afford to spend more. Fourth, the duty represents only a small percentage of the retail price, from 6% to 28%. Retailers and hotels are free to adjust their mark-ups if they want to boost sales. And fifthly, there has been no overall loss of revenue on up-market products despite slightly lower sales.

Air Quality

6. MISS CHRISTINE LOH asked: *Owing to the Administration's intention to develop Container Terminals 10 to 14, the amount of freight cargo driven by road each year through the territory is expected to increase 250% by the year 2011. In this regard, will the Administration inform this Council of:*

- (a) *the estimated air quality impact of such increase in the five Air Control Zones of the Western New Territories and West Kowloon Air Control Zones in relation to the Air Quality Objectives; and*
- (b) *the estimated vehicle emission levels in 2001 and 2011, for Respirable Suspended Particulates (RSP) and Oxides of Nitrogen, measured in annual tonnes, on the basis of there being no change in vehicle technologies?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the estimated air quality impact due to the projected increase in freight-related road traffic is not yet available. The increase in freight cargo quoted by the Honourable Member was the projection of a review of the Port Development Strategy. The main objective of this review was to update the demand forecast for port facilities.

Another study is currently being considered by the Government to review the environmental implications of the projected increase in port and airport throughput. In this study, a strategic environmental assessment will be undertaken to address the cumulative environmental impacts, including impacts on air quality. This will assist the formulation of plans to achieve a sustainable development pattern for Hong Kong.

MISS CHRISTINE LOH: *Mr President, I hate to have to say this but I find the response from the Administration either incompetent or irresponsible. I think also the Administration was wrong in saying that I only referred to the Port Development Strategy which is here, published in 1993. There is another study which perhaps the Administration is not aware of, called the Freight Transport Study, Final Report, published in April 1994. Basically the information, if I can summarize it for the Administration, is that firstly, a 250% increase in total traffic driven through the territory by the time 2011 arrives and secondly, of the total the share driven by container trucks will increase by 564%. Mr President, the Freight Transport Study goes as far as to estimate the traffic increase by types of vehicle in each district. Worse still, it also roughly estimates that the amount of air pollution emitted by freight transport will triple for every major pollutant by the year 2011. So if the Government comes to the Council for funding for Container Terminals 10 and 11 when it has not even done any Environmental Impact Assessments of these projects — the effect that they will have on public health, air pollution, noise pollution, traffic congestion, and where the roads are going to be built, none of these questions will have been answered. Then I have to conclude that the Government is irresponsible. Therefore I want an undertaking from the Government that they will not come to this Council for funding until these studies are done and there are mitigation requirements, and then they must be in place before we grant funding.*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the Port and Airport Development Strategy (PADS) which was adopted by the Government in 1989, and based on which the decision to go ahead with the Chek Lap Kok airport was taken, was accepted in 1989. That Strategy, that is, the PADS, did include environmental assessment of the port peninsula which is to provide container terminals beyond Container Terminal 9. The acceptability in environmental terms of the PADS had already established that environmentally it is acceptable to go ahead with that Strategy.

Now that the airport in Chek Lap Kok is being built and that we are about to begin, hopefully, very soon the construction of Container Terminals 10 and 11, I suggest it is time that we make a review of the overall environmental acceptability of Container Terminals 10 to 14. May I repeat, Mr President, that the Government has only authorized the construction of Container Terminals 10 and 11. No decision has yet been made on Container Terminals 12 to 14. These container terminals are only under planning. So, Mr President, I think we are on the right track, that is, we need to establish the cumulative impact in environmental terms including the impact on the air quality for the future container terminals.

PRESIDENT: Miss Christine LOH.

MISS CHRISTINE LOH: *I am sorry, my question was not answered. Since the Government has admitted in the response to my question that it has done no work on air quality and since air quality is deteriorating very rapidly in Hong Kong, will the Government undertake not to come to this Council for funding for Container Terminals 10 and 11 before work has been done?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, may I first point out that container trucks is not a major source of air pollution in Hong Kong. We all know that air pollution problems are serious in the urban areas because of the use of diesel engines by taxis, public light buses and other light buses. Container trucks usually travel on highways in the New Territories where they do not pose serious air quality problems. As far as the construction of Container Terminals 10 and 11 is concerned, it has been accepted by the Administration and the Executive Council that these two terminals will go ahead and the necessary environmental assessments, including air quality impacts, have already been done.

MISS CHRISTINE LOH: *I am sorry. Where is it? If it has been done, can we see it?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, when we come to this Council for funding for construction of any projects associated with the Container Terminals 10 and 11, we will do the necessary explanations and answer Honourable Members' questions, including those questions on environmental impact.

MR PETER WONG: *Mr President, I find it extraordinary that if such a report is available, it is not made available to this Council at this moment. Mr President, is it the Government's policy to take immediate corrective action to keep pollution within air quality objectives and if necessary, to restrict the entry of polluting traffic into the respective zones? And has the Secretary reconsidered handing out breathing apparatus when air quality objectives are breached, and if he has not, why not?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, as I answered previously, the major air quality problems are found in the main urban areas because of the use of diesel by taxis, public light buses and light buses. There is no plan to ban any traffic into any area because of air quality impact. As Honourable Members are aware, the Environmental Protection Department will publish air quality index to warn citizens on the quality in various regions.

MR JAMES TO (in Cantonese): *Mr President, according to what other Members have just said, the Government is indeed quite responsible in this matter. The Secretary just answered that assessments will be presented to this Council only if they come for funding for the projects. However, many previous assessments on large projects are only limited to the impacts brought to the area in the vicinity, for example, air and noise, and the assessments are usually focused on the construction period and after the construction works. What the Honourable Miss Christine LOH is questioning is the impact of increase in freight cargo because of the new project. These vehicles do not just drive around the construction areas, they will also drive to other areas for loading and unloading as well. The Government informs us that they will implement a study in future. In addition to the environmental impact assessment of the area in the vicinity, would the Government promise to carry out study on other long-term problems that will affect us territory-wide when they come for funding for the project?*

Besides, the Government all along emphasizes that air pollution is not serious in the urban areas. Last week in this Council, however, we learned from the reply of the Government to my oral question that the air quality of Yaumatei Tsimshatsui, Mongkok and Shumshuipo is seriously affected, and

vehicles emission is the major cause. I would like the Government to inform this Council whether vehicles emission is the source of the problem according to their study? Would the officials concerned please not to mention that only the New Territories is affected, as the situation of the urban areas is also deteriorating rapidly, according to the index.

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS (in Cantonese): Mr President, as the Honourable James TO is well aware, we will undertake environmental impact assessment before the construction of any project. This kind of assessment, of course, is focused on the particular project and the impact of the project on the vicinity. We cannot carry out environmental impact assessment of individual project and territory-wide impact assessment at the same time. I believe it is also unnecessary to do so. However, I do agree that the impact of large scale projects on the environment of Hong Kong will be more serious, for example, the construction of Container Terminals 10 to 14 as mentioned in the question. Under such circumstances, we will carry out an overall environmental impact assessment. In other words, in addition to environmental impact assessment of individual project, we will also carry out an overall assessment on all the projects. I hope I can answer the first part of Mr TO's question.

The second part of the question is about air pollution within urban and rural areas. As I answered Miss Christine LOH's question previously, container trucks and lorries in the New Territories are not the major source of air pollution in Hong Kong. Comparatively speaking, owing to various environmental factors, air pollution is far more serious in the urban than the usual areas. The reason is that many light buses and taxis are using diesel engines in the rural areas. We are now actively seeking improvement to this situation. In order to improve the situation, we have to carry out a lot of work. One of the important task is to advise the light buses and taxis to switch to petroleum, but this will affect charging and the public in general. We have to consider different impacts carefully before making any decisions.

WRITTEN ANSWERS TO QUESTIONS

Demolition and Reconstruction Projects of Vocational Training Council

7. MISS EMILY LAU asked (in Chinese): *It is learnt that the Vocational Training Council (VTC) decided in 1994 to demolish the newly-built swimming pool of the Hong Kong Technical College (HKTC) (Chai Wan), which was yet to be used, to make room for the construction of VTC senior staff quarters. Subsequently it further decided to convert the football field of the College into a swimming pool and a basketball court. In this connection, will the Government inform this Council:*

- (a) *whether it has information to indicate when the VTC made the decision to demolish the swimming pool and erect the staff quarters in its place, and when and why the VTC decided to rebuild the swimming pool;*
- (b) *of the respective costs of the above-mentioned projects;*
- (c) *whether it is aware of the sites considered by the VTC for the construction of the staff quarters; if so, what these sites are; and why the site of the original swimming pool of the HKTC (Chai Wan) has been selected; and*
- (d) *whether the reconstruction of the above projects will result in a waste of public money; if so, who should be held responsible for this?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President,

- (a) In 1991, the Vocational Training Council (VTC) started to convert the Chai Wan Technical Institute into the Hong Kong Technical College (Chai Wan) after the Government granted about 1 hectare of land to it. In late 1993, Hong Kong experienced a rapid surge in property rentals. As a result, rental charged to the quarters which VTC provided for its senior staff increased significantly. At the same time, there was an increasing demand for staff quarters. In response to these changes, VTC proposed to build its own quarters. The Government approved the proposal since this would significantly reduce the Government's subvention for quarter rentals.

After considering all relevant factors including the availability of sites, accessibility of location, building cost and staff reactions, VTC proposed that the most cost-effective solution is to incorporate the staff quarters into the campus of the Chai Wan Technical College. Taking into account the configuration of the site, a swimming pool already in place had to be demolished to provide enough space for the construction of quarters. In order to maintain a good learning environment with adequate amenities for the students, the relocation of the swimming pool to another part of the campus was approved.

- (b) The cost of relocating the swimming pool is about \$8 million and the cost of constructing the quarters is about \$200 million.

- (c) When the proposal to build staff quarters was considered, there were no potential sites available for this purpose. VTC had to accommodate the quarters within one of the campus sites of its two Technical Colleges in Chai Wan and Tsing Yi. For the reasons given in (a) above, the Chai Wan Technical College was selected. Within the campus site, the area of the original swimming pool was found to be the most suitable site for the staff quarters as the other facilities such as lecture halls and administration buildings had already been built.
- (d) While maintaining a high-quality learning environment for the students, this project will result in substantial savings of public money. As a result of this construction and relocation arrangement, it is estimated that annual saving in excess of \$100 million could be achieved after the costs of constructing the quarters were settled.

Counselling Service in Harmony House

8. MR FRED LI asked (in Chinese): *As there are only two Social Work Assistants in Harmony House, a refuge providing shelter for battered women and their children, not only is the counselling service provided for the battered women inadequate, but also they cannot provide similar service for the children living there. In this connection, will the Government inform this Council:*

- (a) *whether it will increase the establishment of social work staff for providing counselling service in Harmony House; if not, why not; and*
- (b) *what short- and long-term plans it has to provide counselling service for the children living in Harmony House?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, Harmony House is a refuge operated by a non-governmental organization with government subvention. It provides temporary accommodation for up to 40 battered women and their children for short periods ranging from a few days to up to three months. The refuge is staffed by two Assistant Social Work Officers, one Social Work Assistant, five Welfare Workers and four Workmen.

Battered women and their children admitted into the refuge are provided with services not only by the staff of Harmony House itself, but also by caseworkers of family services centres who work closely together to cater for all the needs of clients staying in the refuge. Services rendered include counselling, psychological assessment/treatment, child care, financial and

housing assistance. This is considered to be an effective approach as a variety of services can be mobilized in good time from the family services centres to meet the clients' specific needs and, in particular, the needs of children accompanying their mothers in the refuge.

It is therefore not intended to increase the subvention to Harmony House to provide more social work staff for counselling services. Battered women and their children staying in the refuge will continue to be provided with adequate services including counselling services through the co-ordinated action of both the staff of Harmony House and caseworkers from family services centres.

Special Administrative Region Land Fund

9. MR JIMMY MCGREGOR asked: *In respect of each of the 1991-92, 1992-93 and 1993-94 financial years, will the Government inform this Council of:*

- (a) *the revenue it received, broken down by each of the following categories:*
 - (i) *land sales (excluding revenues accruing to the Special Administrative Region (SAR) Land Fund);*
 - (ii) *premiums paid for lease variations;*
 - (iii) *property taxes;*
 - (iv) *stamp duty on property transactions;*
 - (v) *general rates;*
 - (vi) *any other revenue arising from land and property transactions;*
 - (vii) *revenue from petrol and diesel fuel for vehicular use; and*
- (b) *the amount of premium income obtained from land transactions paid to the SAR Land Fund?*

SECRETARY FOR THE TREASURY: Mr President, the information sought by the Honourable Member is set out below:

	1991-92 \$ million	1992-93 \$ million	1993-94 \$ million
(a) (i) Land revenue			
(A) Land premium ^(Note 1)			
I. Gross premium income collected from			
- Sales by public auction and tender	13,925	11,511	17,965
- Private treaty grants	3,656	633	3,289
- Modification of existing leases, exchanges and extensions	3,358	4,262	22,306
Total ^(Note 2)	20,939	16,436	44,560
II. Net premium income paid to Hong Kong Government (including average land production costs) ^(Notes 2 and 4) .	8,533	8,589	18,229
(B) Other land transactions ^(Note 3)	412	267	264
(ii) Property taxes	1,230	1,304	1,511
(iii) Stamp duty on property transactions	7,007	9,694	12,828
(iv) General rates	3,494	4,424	4,461
(v) Rents from government properties, quarters and government land	1,448	1,671	1,956
(vi) Revenue from petrol and diesel fuel for vehicle use	2,960	3,200	3,684
(b) Net land premium income to the future Hong Kong Special Administrative Region Land Fund ^(Note 2) .	7,475	7,592	16,893

Notes:

1. This represents revenue from land transactions which were completed or decided upon after the coming into force of the Joint Declaration, that is, after 27 May 1985, and which confer a benefit that expires after 30 June 1997.
2. In accordance with procedures agreed by the Land Commission, revenue collected in each quarter (and credited initially to the Hong Kong Government (HKG) Capital Works Reserve Fund (CWRP) Suspense Account) is only paid into the HKG CWRP Works Account and the future Hong Kong Special Administrative Region (HKSAR) Land Fund in the following quarter. Thus revenue collected in the final quarter of a financial year is only paid into the respective accounts in the first quarter of the following financial year. As a result, the gross revenue collected in each financial year is not equal to the total of the amount paid into the HKG CWRP Works Account and the future HKSAR Land Fund in the same financial year.

3. Revenue from land transactions completed or decided upon before the coming into force of the Joint Declaration, that is, before 27 May 1985, or land transactions conferring a benefit that expires on or before 30 June 1997 are wholly credited to the HKG.
4. In accordance with Annex III to the Joint Declaration, premium income obtained from land transactions, after deduction of the average cost of land production, is shared equally between the HKG and the future HKSAR Government. The total amount paid into the HKG CWRP Works Account is thus the sum of the HKG's share of net premium income and the amount which represents the agreed average cost of land production. As a result, the total amount credited to the HKG CWRP Works Account in any financial year is slightly larger than the amount credited to the future HKSAR Land Fund.

Four-year-course System of Universities

10. MR HENRY TANG asked (in Chinese): *It is learnt that all seven universities have reached a consensus to put forward a proposal for the adoption of a four-year-course system from 1998 to replace the existing three-year-course system. Will the Government inform this Council whether it has information to indicate the estimated amount of additional resources to be required annually in implementing the new system, together with the increase in the unit cost of each undergraduate degree place to be incurred; if so, what the details are?*

SECRETARY FOR EDUCATION AND MANPOWER: Mr President, the Administration understands that the seven institutions funded by the University Grants Committee have not reached any consensus to implement a proposal to replace the existing three-year-course system with a four-year-course system and no proposal has been made. In the absence of any such proposal, the Administration cannot provide any information on the additional resources likely to be required to implement such a system, if proposed, nor does it wish to make any judgement on what is at this stage a hypothetical question.

Breach of the Census and Statistics Ordinance

11. MR ERIC LI asked (in Chinese): *According to the Census and Statistics Ordinance (Cap. 316), any person who provides the Government with schedules or returns containing false and incorrect information is liable to a fine of \$5,000 and imprisonment for six months. Will the Government inform this Council of the respective number of persons convicted of breaching the above provision in the Census and Statistics Ordinance in each of the past three years, together with the respective numbers of such convictions involving imprisonment and fines?*

SECRETARY FOR FINANCIAL SERVICES: Mr President, in the past three years, there were no prosecutions made under the Census and Statistics Ordinance in respect of the provision of false and incorrect information.

In conducting statistical surveys under the Ordinance, the Census and Statistics Department makes every effort to ensure that respondents comply with the requirement to provide correct information through careful explanation of data needs and solicitation of willing co-operation.

Shortage of Enrolled Nurses in Subvented Care and Attention Homes

12. MR FRED LI asked (in Chinese): *It is learnt that there are differences in fringe benefits for the enrolled nurses working in subvented Care and Attention Homes (CAHs) and those in the Hospital Authority (HA), for example, a cash allowance at 16.5% on the monthly basics salary is paid to staff working in the HA but not to those in CAHs. This has led to a shortage of manpower in CAHs and some CAHs even have to freeze admission applications owing to a shortage of enrolled nurses. In this regard, will the Government inform this Council:*

- (a) *whether consideration will be given to enhancing the fringe benefits for enrolled nurses working in subvented CAHs to make them in line with those in the HA, so as to attract more enrolled nurses to work in subvented CAHs; if not, why not; and*
- (b) *what other specific short-term measures and long-term policies it has put in place to solve the problem of insufficient nurses in subvented CAHs?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the reply is as follows:

- (a) The terms and conditions of employment established for HA staff were developed uniquely to address issues related to the establishment and development of that Authority. It would not, therefore, be appropriate to adopt such terms and conditions for Enrolled Nurses or any other staff operating in the welfare sector. Any such change could not be limited to Enrolled Nurses alone and would risk completely changing the approach to paying all staff in the subvented welfare sector.
- (b) We are, nevertheless, concerned about the shortage of Enrolled Nurses in subvented CAHs.

The long-term solution is clearly to train more Enrolled Nurses. In order to attract more to come forward for training, we need to define more clearly a professional role for nurses. To provide the necessary encouragement, we have allocated funds to enrich the curriculum of nursing schools to cover additional topics on

geriatrics, psychiatrics, community health and midwifery, improve the teacher-to-student ratio of nursing schools and increase the number of sponsorships of nurses to attend post-registration training course.

To resolve or alleviate the problem in the immediate term, we have given subvented CAHs the flexibility:

- to employ Registered Nurses to hold against the posts of Enrolled Nurses;
- to employ part-time Registered Nurses on a daily rate; and
- to grant daily pay rates to existing staff in residential care homes who are willing to perform extra shift hours of work.

In addition to this, in July 1994 the Social Welfare Advisory Committee endorsed a recommendation to create a health worker grade for subvented residential care homes. The subvented homes have the option of employing health workers if sufficient Enrolled Nurses cannot be recruited. Currently, there are about 300 health workers who have successfully completed the approved training course jointly organized by the Social Welfare Department and the College of Nursing. Apart from continuing the joint training programme with the College of Nursing, the Social Welfare Department is also considering with other professional bodies the organization of more training courses in the coming two years to meet nursing requirements both in subvented and private homes for the elderly. I will also examine the shortfall in Enrolled Nurses in the welfare sector with the relevant government departments to make recommendations for any additional measures which can be taken to address the problem.

Remuneration of Hospital Authority's Health Professionals

13. MR MICHAEL HO asked (in Chinese): *According to this year's budget, the overall growth in the number of medical officers of the Hospital Authority at all ranks has been apparently higher than that of nurses and other allied health professionals for two consecutive years. In this connection, will the Government inform this Council of the Hospital Authority's respective expenditure on salaries and cash allowances paid respectively to (a) medical officers, (b) nurses, (c) physiotherapists, (d) radiographers and (e) occupational therapists in each of the past three financial years?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, the manpower requirements and staff mix of the Hospital Authority are normally determined by the service development of individual hospitals in the context of their respective annual plans.

A breakdown showing the annual expenditure on salaries and cash allowances paid to different grades of hospital staff in the past three financial years are as follows:

	1992-93	1993-94		1994-95	
	\$M	\$M	%	\$M	%
(a) Medical Officers	1,960	2,175	(+10.9)	2,599	(+19.5)
(b) Nursing Staff	3,787	4,287	(+13.2)	4,822	(+12.5)
(c) Physiotherapists	99	140	(+41.4)	158	(+12.8)
(d) Radiographers	154	207	(+34.4)	231	(+11.6)
(e) Occupational Therapists	61	71	(+16.4)	86	(+21.1)

Enquiry Hotlines of Government Departments

14. MR ALBERT CHAN asked (in Chinese): *At present many government departments have set up enquiry hot-lines for the public. However, quite a number of citizens complain about the difficulty in putting a call through during office hours. In this connection, will the Government inform this Council:*

- (a) *of the total number of government departments having such enquiry hot-lines;*
- (b) *of the average number of telephone lines available on enquiry hot-lines provided by the government departments, together with the average usage rate in the past six months; and*
- (c) *whether consideration will be given to making performance pledges in respect of these enquiry hot-lines so as to enable easier access to the service?*

CHIEF SECRETARY: Mr President,

- (a) At present, 44 government departments are providing a total of 105 enquiry hotlines to the public.

- (b) An average of eight telephone lines is available for each government enquiry hotline. Over the past six months, these hotlines handled a total of about 117 200 calls from the public each day, with an average of 140 calls per day for each telephone line.
- (c) The performance of government hotlines has been improved considerably with the introduction of automated telephone answering systems, in particular the Interactive Voice Response System. Departments will continue to keep under constant review the possibility of installing modern communication devices and making other improvements to enhance the services provided by the enquiry hotlines. Seventeen government departments have already included hotline services in their performance pledges and the Efficiency Unit will encourage others to follow suit whenever practicable.

Prevention of Landslips

15. MR ALBERT CHAN asked (in Chinese): *As the rainy season has set in, and landslips occurred again on 19 April 1995 because of the heavy rain, will the Government inform this Council:*

- (a) *what measures, apart from undertaking systematic slope inspections and maintenance, the government departments concerned will take to prevent the occurrence of landslips and thus casualties and what emergency procedures have been put in place to deal with such accidents; and*
- (b) *whether such measures and procedures have been formulated in the light of the experience gained in the Kwun Lung Lau landslide?*

SECRETARY FOR WORKS: Mr President,

- (a) and (b)

In addition to undertaking systematic slope inspections and maintenance, the Government is also implementing the recommendations in Professor MORGENSTERN's report relating to measurement of masonry wall thickness, to undertake and support research into improved site characterization and to establish a Technical Review Board.

As regards the recommendation to develop a programme for direct monitoring and repair of buried services, a Working Group on the maintenance of buried services affecting slopes has been formed. An advisory note on the inspection and maintenance of buried

drainage and water-carrying services and a practice note for Authorized Persons and Registered Structural Engineers on constructing new private water-carrying services in such a manner to avoid danger to slopes have been prepared and are being distributed to owners' corporations, mutual aid committees, Authorized Persons and Registered Structural Engineers. In addition, all departments with responsibility for underground services which are adjacent to slopes have arranged inspection programmes.

The recommendation to adopt a more integrated approach into slope stability process is being taken forward.

The Works Branch has also completed an extensive review of the slope safety programme with a view to further lessening the risk of landslides threatening public safety. The review looked in detail at the current legislation, policy and resources on slope safety activities, and complements the earlier recommendations in Professor MORGENSTERN's report.

The report contains the following main recommendations which are being implemented:

- (a) The current Landslip Preventive Measures (LPM) programme, which involves the inspection and, where necessary, upgrading of 10 000 man-made slopes listed in the 1977-78 catalogue of the Geotechnical Engineering Office, is being accelerated by 10 years for substantial completion by 2000.
- (b) The LPM programme is being extended to cover certain slopes which have previously been classified as "low consequence", such as those close to busy roads and footpaths.
- (c) The system for classifying slopes according to the consequences of their failure is being reviewed.
- (d) Public education on slope maintenance is being stepped up. A layman's guide on slope maintenance and a geoguide for the professionals will be issued. Owners of private slopes and building managers are being made clearly aware of their obligations for slope maintenance.
- (e) Response time of Works Departments to landslip emergencies will be reduced through better deployment of stand-by staff, better co-ordination, extra transport facilities and upgrading of telecommunication equipment.

The review also puts forward the following recommendations which are receiving further detailed consideration:

- (f) Legislative amendments to improve statutory geotechnical control of private slopes and developments. This may include the statutory requirement to appoint qualified Geotechnical Engineers to undertake the investigation, design, supervision and administration of geotechnical works, and
- (g) A register to clearly define the responsibilities for slope maintenance.

As regards emergency procedures, the Government has specific contingency plans that outline the response to a variety of emergencies. The Natural Disaster Plan is particularly relevant to the response to landslips.

In the event of a major emergency, the Government Secretariat Emergency Co-ordination Centre (GSECC) is set up, and assists in co-ordinating the overall response. GSECC also provides logistic and policy support for the frontline emergency services that are mobilized.

Liaison Officers from different government departments and the Works Branch are deployed to GSECC as required. They provide expert advice, and facilitate communication between their own and other departments, and GSECC.

In the light of the experience gained including the Kwun Lung Lau landslip, GESCC procedures have been reviewed and enhanced so as to improved the flow of interdepartmental communication.

Incidents Involving Dangerous Chemicals and Poisonous Gas

16. MR CHEUNG MAN-KWONG asked (in Chinese): *In view of the recent poisonous gas incidents in the underground railway in Japan and the death of a Hong Kong University of Science and Technology research student after inhaling fumes from toxic chemicals, will the Government inform this Council:*

- (a) *of its policies on the monitoring of schools (universities and secondary schools), factories or related organizations over the storage and use of chemicals which can be used to manufacture dangerous articles, so as to prevent such chemicals from being taken and turned into articles that can be used to endanger public safety and used for illegal purposes;*
- (b) *whether it will regularly review the measures to monitor dangerous chemicals in the territory, so as to ensure that chemicals stored in schools (universities and secondary schools), factories or related organizations are adequately monitored;*

- (c) *whether, in the event of serious incidents such as poisonous gas leakage, the Government has any contingency measures in place including warning the public well in advance, so as to minimize the casualties and damage to property caused by such serious incidents; and*
- (d) *what experience the Government has gained from the above-mentioned two incidents in order to prevent and tackle similar incidents?*

SECRETARY FOR SECURITY: Mr President,

- (a) The Dangerous Goods Ordinance classifies substances which are potentially dangerous. This legislation governs the labelling, packaging and storage of such substances. Potentially dangerous substances are required to be kept in a dangerous goods store. Locks and firefighting installations which have been approved by the Fire Services Department (FSD) must be provided. Dangerous goods stores are licensed by the FSD, and are subject to regular inspections to ensure compliance with all safety and security requirements. These inspections include an annual licence renewal inspection.

Factories that use potentially dangerous substances in the course of their trade are also required to comply with the safety regulations contained in the Factories and Industrial Undertakings (Dangerous Substances) Ordinance.

Schools that store small quantities of potentially dangerous substances are subject to the requirements of the Education Department as regards safe storage and control. Universities enforce codes of safe practice for university laboratories which include procedures for the safe storage of chemicals.

The importation of some specific substances which may be used to manufacture illegal and harmful substances requires a licence from the Director General of Trade. Such a licence will not be granted unless the Director General of Trade is satisfied that the substance is going to a legitimate and competent end user.

- (b) The Government's Dangerous Goods Standing Committee regularly reviews the measures to control and monitor the storage and use of dangerous chemicals in all controlled establishments, including schools, factories and related establishments.
- (c) The Royal Hong Kong Police Force (RHKPF), the FSD and other government departments have various contingency plans that lay

down the procedures for dealing with many different types of emergency, including plans to deal with the presence of poisonous gas. These contingency plans include procedures for evacuation, the cordoning of areas and buildings, and broadcasting of warning messages as necessary.

- (d) The incidents referred to provided a salutary reminder to all concerned, including government departments, of the importance of maintaining credible and reliable measures to control and monitor the import, handling and storage of dangerous materials, and the regular review of these measures. To this end, the FSD, the RHKPF, the Mass Transit Railway Corporation (MTRC) and the Kowloon-Canton Railway Corporation (KCRC) hold regular meetings to discuss station safety precautions and emergency response procedures. Since the underground railway gas incident that occurred in Japan, meetings have also been held between the FSD, RHKPF, MTRC and KCRC on enhancing operational procedures to deal with such an incident. Joint exercises are conducted on a regular basis to test responses to emergency situations. The next such exercises will be held in June and July of this year.

As regards educational establishments, every such establishment that has a laboratory is required to have a code of safe laboratory practice. The Education Department (ED) arranges laboratory safety training for teachers who are new to laboratory work. Principals of schools are also required by the Education Regulations to appoint a senior staff member, who has adequate knowledge of safety measures relating to the chemicals stored in the laboratory, to take charge of the laboratory and the chemicals stored therein. The ED reviews these measures annually; following a recent incident they have been reviewed again. The Department has just issued an updated edition of its annual circular on laboratory safety.

Laboratories in government schools are subject to safety inspections by the ED every four years. Laboratories in private schools, which are not usually situated in dedicated school buildings, are inspected annually.

Universities appoint, at a senior level, Safety Officers whose responsibilities include the safe operation of laboratories. These Safety Officers are assisted in their duties by expert personnel with relevant training and experience. The universities have themselves established a Tertiary Institutions Safety Advisory Group, which oversees safety measures, including those in laboratories. Since the accident at the Hong Kong University of Science and Technology, a review of university laboratory safety has been set in progress by

the Secretary for Education and Manpower. The review will cover both regulatory and procedural aspects.

Implementation of the Land Drainage Ordinance

17. MR WONG WAI-YIN asked (in Chinese): *This Council passed the Land Drainage Ordinance last year in an attempt to alleviate the flooding problem in the New Territories. It is learnt, however, that the progress of implementing the Ordinance has been slow. In this connection, will the Government inform this Council:*

- (a) *of the progress of implementing this Ordinance to date since its enactment; and*
- (b) *whether the current progress is behind the original schedule; if so, what the reasons are; whether any difficulties have been encountered and what measures have been put in place to speed up the progress of the related work?*

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Mr President, the reply to the question is as follows:

- (a) There has been no delay in the implementation of the Land Drainage Ordinance (Cap. 446). It has always been our plan to implement the Ordinance in five major drainage basins in the northwestern and northern New Territories by the end of 1996. To do this, we have commenced a series of preparatory work including the preparation of subsidiary legislation and the Drainage Authority Area plans and the establishment of the Drainage Appeal Board Panel. The present position in this regard is that:
 - (i) the drafting of the two sets of subsidiary legislation under the Land Drainage Ordinance, namely the Land Drainage (Appeal) Regulation and the Land Drainage (Approval and Consent) Regulation, is nearing completion. They will be gazetted shortly;
 - (ii) the first Drainage Authority Area plan, the Yuen Long/Kam Tin/Ngau Tam Mei Drainage Basin Plan will be gazetted in tandem with the subsidiary legislation mentioned above. The second Drainage Authority Area plan, the Indus Drainage Basin Plan, has been completed. We shall commence consultation with the North District Board and relevant rural committees shortly. We aim to gazette the plan in a few months' time; and

- (iii) a Drainage Appeal Board Panel will be set up on 1 June 1995 to deal with appeals against decisions of the Drainage Authority lodged under the Land Drainage Ordinance.
- (b) We aim to publish all the five Drainage Authority Area plans by the end of 1996. We are on schedule.

Fund-raising Activities of Tung Wah Group of Hospitals

18. MR MICHAEL HO asked (in Chinese): *The five hospitals under the Tung Wah Group of Hospitals, Yan Chai Hospital, Pok Oi Hospital, and the Ruttonjee Hospital and Grantham Hospital under the Hong Kong Tuberculosis, Chest and Heart Diseases Association have been placed under the management of the Hospital Authority. Regarding the revenues and expenditures in respect of the fund-raising activities organized by these hospitals in 1994, will the Government inform this Council of the following:*

- (a) *the amount of money raised before deducting expenses by these hospitals in each fund-raising activity;*
- (b) *the total expenses incurred to these hospitals in each fund-raising activity, together with a breakdown of the expenses and the amount spent under each item;*
- (c) *the amount of net donation received by these hospitals in each fund-raising activity after deducting expenses; and*
- (d) *the respective numbers of man-hours spent and staff mobilized by these hospitals in each fund-raising activity for:*
 - (i) *appearing in TV programmes;*
 - (ii) *selling flags in the streets; and*
 - (iii) *answering donation calls?*

SECRETARY FOR HEALTH AND WELFARE: Mr President, all the hospital fund-raising activities in question were organized by their respective parent associations, namely, the Hong Kong Tuberculosis, Chest and Heart Diseases Association, Pok Oi Hospital, Yan Chai Hospital and Tung Wah Group of Hospitals. All of these are established charitable bodies with a long tradition of soliciting community support for the provision of welfare, health and education services in partnership with the Government.

While the Hospital Authority is responsible for the management and control of all public hospitals to ensure quality medical services for patients, the

affiliated charitable bodies enjoy full autonomy in other areas of their traditional operation. The fund-raising activities organized by these bodies are thus no different from similar events in the welfare sector. The extent of participation by hospital staff in such activities is entirely voluntary. Under the present arrangement, the Government assumes a supporting role and is not therefore in a position to supply the information requested.

Airport Railway

19. MR FREDERICK FUNG asked (in Chinese): *The Mass Transit Railway Corporation (MTRC) states in its Annual Report that the Airport Railway will not become operational until the second quarter of 1988. In view of this, will the Government inform this Council whether:*

- (a) *the railway will be fully or partly operational in 1988; and*
- (b) *the completion date of the Terminal Building will be delayed as a result; if not, what the reasons are?*

SECRETARY FOR WORKS: Mr President,

- (a) We have already announced that as a result of the delay in the award of the Central Reclamation contract in 1993, it is not possible to complete the Hong Kong Station of the Airport Railway until the second quarter of 1998. The Mass Transit Railway Corporation sees no reason why the Airport Railway cannot be fully operational in 1998.
- (b) Under the Memorandum of Understanding signed by the Chinese and British Governments in 1991, we are committed to complete the new airport at Chek Lap Kok to the maximum extent possible by mid-1997. In accordance with this obligation, it remains our objective to complete the Passenger Terminal Building according to the current schedule, regardless of any change in the opening date of the Airport Railway.

Motorcycle Accidents

20. DR HUANG CHEN-YA asked (in Chinese): *Regarding traffic accidents involving motorcycles, will the Government inform this Council:*

- (a) *of the number of such accidents in each of the past three years;*

- (b) *of the respective rates of death and head injuries resulting from such accidents in each of the past three years; and*
- (c) *what measures are in place to monitor the sale of helmets so as to ensure that they are in compliance with the safety requirements?*

SECRETARY FOR TRANSPORT: Mr President,

- (a) Motorcycle accident statistics for the last three years are as follows:

*No. of motorcycle
accidents*

1992	2 556
1993	2 617
1994	2 632

- (b) In the same period, the numbers of fatal injuries and head injuries arising from motorcycle accidents were as follows:

	<i>1992</i>	<i>1993</i>	<i>1994</i>
Fatal injuries	26 (1%)	25 (0.9%)	30 (1.1%)
Head injuries	265 (10%)	254 (9.6%)	263 (9.8%)

The figures in brackets denote the percentages of the total numbers of injuries resulting from motorcycle accidents.

- (c) The standards for helmets to be worn by motorcyclists are set out in the Road Traffic (Safety Equipment) Regulations. It is an offence if helmets other than those of an approved type are sold or worn. While the sale of helmets is not specifically monitored by the Government, in investigating motorcycle accidents, the police do check whether the helmets worn conform with the approved standard. In the past three years, there have been 41 prosecutions for wearing non-standard helmets.

MOTION

TRADING FUNDS ORDINANCE

THE SECRETARY FOR ECONOMIC SERVICES moved the following motion:

"That with effect from 1 June 1995 —

- (a) on the recommendation of the Financial Secretary, the Office of the Telecommunications Authority Trading Fund ("the trading fund") shall be established to manage and account for the operation of the government service of the Office of the Telecommunications Authority;
- (b) the services to be provided under the trading fund shall be those specified in Schedule 1;
- (c) the assets set out in Schedule 2 shall be appropriated to the trading fund;
- (d) the net value of the assets of \$212.4 million shall be shown in the Capital Investment Fund as a contribution of the trading fund capital.

SCHEDULE 1

[para. (b)]

SERVICES TO BE PROVIDED UNDER THE TRADING FUND

1. Supporting the Telecommunications Authority in administering and enforcing the provisions of the Telecommunication Ordinance (Cap. 106) and the Telephone Ordinance (Cap. 269) as those provisions may from time to time be amended or repealed and re-enacted with or without modification, including the statutory functions relating to -
 - (a) setting of technical standards for telecommunications;
 - (b) type approval and certification of telecommunications equipment;
 - (c) economic and technical regulation of the telecommunications industry;
 - (d) interconnection and shared use of telecommunications networks and facilities;
 - (e) controlling and administering the telecommunications numbering plan;
 - (f) promotion of competition within the telecommunications industry;
 - (g) protecting the interests of telecommunications users and consumers;
 - (h) management of the radio spectrum;
 - (i) regulation and control of harmful radio interference;

- (j) licensing of telecommunications services, networks, systems and installations;
 - (k) representation of Hong Kong in public telecommunications related forums;
 - (l) accounting standards, tariffs and price control of the telecommunications industry;
 - (m) investigation and enforcement;
 - (n) observance of the terms of international conventions;
 - (o) advice to the Government; and
 - (p) carrying out functions in accordance with directions by the Secretary for Economic Services on general telecommunications policy matters.
2. Performing any of the services specified in this Schedule under administrative or statutory authority, as appropriate.
 3. Any functions that the Telecommunications Authority may be authorized to perform under or by virtue of any other Ordinance.
 4. Any service incidental to or conducive to the provision of any of the services specified in this Schedule.

SCHEDULE 2

[para. (c)]

ASSETS

Item	Description	Terms
1.	Parts of the building known as Wu Chung House, namely: <ul style="list-style-type: none"> (a) the 29th floor; and (b) that part of the 25th floor as shown in the document marked "Accommodation Plan of OFTA" dated 3 February 1995 and kept by the Director-General of Telecommunications. 	The assets mentioned herein shall not be disposed of without the prior approval of the Financial Secretary.

Item	Description	Terms
2.	All furniture and fixtures, equipment, computer system and office cars under the control of the Office of the Telecommunications Authority on 31 May 1995, as set out in the document marked "Inventory of Furniture, Equipment and Motor Vehicle of OFTA" kept by the Director-General of Telecommunications.	
3.	Capitalized setting-up costs."	

He said: Mr President, I move the motion standing in my name in the Order Paper. Section 3(1) of the Trading Funds Ordinance provides that the Legislative Council may, on the recommendation of the Financial Secretary, establish by resolution a trading fund to manage and account for the operation of a government service with the objective that such service shall fund itself from the income generated from it. This motion I move today seeks to establish the Office of the Telecommunications Authority (OFTA) Trading Fund with effect from 1 June 1995. The resolution sets out the services to be provided under the OFTA Trading Fund and the terms on which the assets and liabilities are to be appropriated to the Trading Fund.

As part of the Government's policy commitment to strengthen telecommunications regulation, support further market liberalization and protect consumer interests, OFTA was established on 1 July 1993 by taking over all the tasks and responsibilities previously performed by the Telecommunications Branch of the Post Office.

In discharging its functions, OFTA is required to provide a wide range of services in response to customer demand and recover the costs of providing the services through licence fees and charges. These services include, for example, the co-ordination of radio frequencies for the operation of a satellite by a satellite licensee, the monitoring and prevention of radio interference caused to cellular and paging users, the handling of consumer complaints, the arbitration of disputes between telecommunications operators, and the adjudication of interconnection agreements between network licensees.

Since most of the services provided by OFTA are in response to public or industry demand and the costs of providing such services are fully recovered from the users, OFTA meets all the criteria for operating on a trading fund basis. Further as Hong Kong moves rapidly to a more service-based economy, with a growing reliance on efficient communications, it is important that OFTA has the resources and flexibility of operation it needs to respond promptly and effectively to rapidly changing market and regulatory conditions.

We consider that OFTA will be better placed to meet these challenges when operated as a trading fund. Specifically, it will be able to channel revenues from the fees and charges it raises directly towards the provision of efficient services to the public and the telecom industry. Departmental management will also have more flexibility to employ additional staff, bring in outside expertise and upgrade technical support facilities to keep up with the rapid evolution of telecommunications technologies.

Furthermore, the more rigorous accounting and operational disclosure requirements imposed by the Trading Funds Ordinance will also bring about improved service, increased responsiveness to industry needs and a higher degree of transparency in OFTA's operations. OFTA will be required, among other things, to achieve a reasonable rate of return, table an annual operating report in this Council and publish a corporate plan and an annual business plan setting out its productivity improvement and investment plans. The public, the telecommunications industry and this Council will be able to monitor its performance closely.

Mr President, we have had useful discussions with the Subcommittee of the House Committee set up to examine the OFTA Trading Fund Resolution. During those discussions, some Members have expressed the view that the target rate of return for the OFTA Trading Fund, which is set at 16% on average net fixed assets, is too high and may have implications for future telecommunications fee increases. The Administration has explained that the target rate of return of the OFTA Trading Fund is determined on the same basis as all other government utilities and is an important management tool to stimulate the trading fund management to improve efficiency by lowering operating costs.

OFTA will not be permitted to raise fees and charges simply because it has failed to achieve the target rate of return. Rather, a failure to achieve the target rate of return will give the Government a signal to review the trading fund's performance. A further point is that OFTA's move onto trading fund status will not alter Member's role in monitoring telecommunications fees and charges. These fees and charges will continue to be specified in the Telecommunication Regulations and tabled in this Council and Members will have the opportunity to review the operation of the trading fund before endorsement of any proposed fee increase.

Nevertheless, in the light of Members' concern on this issue, the Administration has undertaken to discuss the target rate of return further with Members in two years' time after the OFTA Trading Fund has gained some real operational experience.

Members have also expressed concerns that in its first three years of operation, the proposed OFTA trading fund is projected to earn surpluses significantly in excess of the target rate of return. We have explained to Members that this short-term over-recovery of revenue is due mainly to the

very rapid growth in the telecommunications market in recent years and that it is the intention of the Director-General of OFTA to take prompt measures to reduce charges to consumers where appropriate.

Specifically, he will be taking immediate action, with effect from 1 June 1995, to rebalance income from different categories of telecommunications fees and charges, by reducing the paging licence fee from \$80 to \$75 and changing the basis for calculating the licence fees, the combined effect of which will be to reduce OFTA's revenue from paging licence fees by over \$20 million a year. Under the trading fund mode of operation, all users of OFTA's services will be charged on a fair and transparent basis the full cost of the services they are receiving.

As regards the use of the surpluses, the Government's dividend policy is that the OFTA Trading Fund should repay to Government the cost of capital of the public assets vested in it, so as to avoid any hidden government subsidy to the fund. The dividend payment would be about 50% of its annual surplus. Because of the higher than average projected surpluses for the first three years of the trading fund operation, we have agreed to set the dividend at considerably lower levels for that period, in the 30% to 40% range. In addition, as recommended by Members, we also agree that any operating surplus in excess of the targeted return will be transferred to a Development Reserve within the Trading Fund's accounts. This Reserve will be used to reduce the need for future fee increases. As set out in the financial projections contained in the Corporate Plan, the net effect is that dividend proposed to be paid to the Government over the five-year projected period would be only around 8% of average net fixed assets. With this arrangement and based on current financial projections, we do not envisage any increase in existing telecommunications fees for the next five years.

Mr President, I beg to move.

Question on the motion proposed.

MR PETER WONG: Mr President, I rise to speak to support the motion by the Secretary for Economic Services which seeks to establish the OFTA Trading Fund on 1 June 1995.

A Subcommittee under my chairmanship was formed to scrutinize the resolution. The Subcommittee held two meetings which the representatives of the Administration also attended.

During these meetings, the Secretary for Economic Services undertook to consider various points raised by the Subcommittee. I am gratified that he has now responded positively to all these points which he just mentioned in his speech.

The Committee is pleased that the paging licence fee will be reduced by \$5 to \$75 from 1 June 1995. However, we wish the Administration to take steps to ensure that this reduction is passed onto the consumers and do not become windfall profits for the operators.

I am sure that the setting up of the OFTA Trading Fund is a right move by the Government in order to bring about efficient and responsive services to both the telecommunications industry and the consumers.

Mr President, with these remarks, I support the motion.

MR STEVEN POON (in Cantonese): Mr President, the establishment of the OFTA (Office of the Telecommunications Authority) Trading Fund ("Trading Fund") is a means to enhance flexibility in the operation of OFTA. I think that the work of the OFTA since its establishment should be recognized, as telecommunications business is a very complex one. The OFTA was established in 1992 under the auspices of the Legislative Council. Its establishment and its work have met the demands then of this Council.

The OFTA should be given sufficient manpower and financial resources in order to supervise the operations of telecommunications companies in a world in which telecommunications technologies advance by leaps and bounds. The Trading Fund serves to provide a good foundation for the supervisory duties that need to be carried out by the OFTA. It also serves to provide greater flexibility in recruiting high-tech expertise and consultants to keep up with the rapid development of telecommunications technologies. To operate, the Trading Fund needs income from licence fees. When this income far exceeds expenditure, the surplus should be returned as far as possible to telecommunications consumers. This is one of the reasons why we prompted the establishment of the OFTA. Ultimately, those who benefit from the surplus should be the consumers themselves. Currently, licence fees charged by OFTA are extremely high. We are happy to hear that the Secretary for Financial Services said licence fees will be reduced by around \$20 million each year. As the Honourable Peter WONG said a moment ago, colleagues of the Liberal Party wish the Administration to take steps through the OFTA to ensure that this reduction is passed onto the consumers.

Lastly, I want to thank the Secretary for Economic Services for handling the motion properly. We made a number of proposals on the matter. After some arguments, the Secretary managed to approach the proposals with a positive attitude, in particular, the proposal for a Development Reserve to be established, which was eventually accepted although it was not put forward at the time. As the establishment of a Development Reserve may be applicable to other trading funds, its establishment may set a precedent for the operation of trading funds. With regard to the rate of return, although there have been a lot of arguments, the Secretary has eventually decided to set the same at 16% on average net fixed assets (whether the 16% level is reasonable will be subject to

discussion after two years), and the dividend at around 8% on average net fixed assets. These are quite reasonable figures and I wish to thank the Secretary and his colleagues for their hardwork.

The Liberal Party supports the motion on the Trading Fund.

Question on the motion put and agreed to.

BILLS

First Reading of Bills

ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS) (NO. 2) BILL 1995

TELEPHONE (AMENDMENT) BILL 1995

Bills read the First time and ordered to be set down for Second Reading pursuant to Standing Order 41(3).

Second Reading of Bills

ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS) (NO. 2) BILL 1995

THE ATTORNEY GENERAL moved the Second Reading of: "A Bill to amend the law relating to juvenile offenders cautioned by police superintendents, to abolish certain offences relating to publication, to amend the law relating to certain procedural matters in criminal proceedings, to amend the law affecting solicitors' and foreign lawyers' practice, to enable the Attorney General to apply to the court for appointment of judicial trustees, to rationalize and improve minor aspects of various Ordinances, to dispense with the requirement for supervising officers of female offenders or probationers to be female, to empower members of the Immigration Service to enter and search with warrant under certain circumstances, to amend the law relating to release of prisoners under supervision, to amend the law relating to the use of deceased persons' bodies or parts thereof for therapeutic or other permitted purposes and to provide for other miscellaneous and minor amendments."

He said: Mr President, I move that the Administration of Justice (Miscellaneous Provisions) (No. 2) Bill 1995 be read a Second time.

The purpose of this Bill is to make improvements to the law relating to the administration of justice and legal services, to reform the law relating to press freedom, to repeal or amend certain provisions which are inconsistent

with the Bill of Rights Ordinance, and to make miscellaneous minor amendments to our laws. The Bill is part of an ongoing process in my department of keeping the law relating to the administration of justice under constant review, in order to ensure that it is efficient and effective.

Administration of justice and legal services

The Bill proposes to amend the law relating to the administration of justice and legal services in three major ways.

First, clause 8 of the Bill improves the administration of criminal justice by providing that a party to criminal proceedings who proposes to introduce expert evidence shall give advance notice to the other party. Under the present law, there is no requirement for the defence to give any advance information to the prosecution except of an alibi defence in a case that is tried on indictment. The absence of such a requirement can cause unfairness to the prosecution where expert evidence is tendered by the defence at trial. Counsel for the prosecution may be taken by surprise by this and may not be able to contest the evidence. This may lead to misconceived scientific evidence being unchallenged, or to the trial being adjourned whilst the prosecution obtains its own expert evidence. Thus it is proposed that advance notice of expert evidence should be given.

Secondly, the Bill deals with the situation where an indictment is quashed by the High Court, for example, where a criminal charge is struck down by the High Court as being defective. At present, the only way to challenge the correctness of the High Court decision is to appeal to the Privy Council. It is considered undesirable to have to appeal directly to the Privy Council in respect of such a decision, when an appeal to the Court of Appeal would be quicker and less costly. It is therefore proposed in clause 9 that the Attorney General should have the power to appeal to the Court of Appeal against a High Court judge's decision to quash an indictment. This would follow the present power of the Attorney General under section 81E of the Criminal Procedure Ordinance to appeal against a decision to discharge an accused person before the trial begins.

Thirdly, clause 11 of the Bill extends the Law Society's right of intervention in respect of a solicitor's practice so as to afford greater protection to a solicitor's clients. This will enable the Law Society to act decisively where urgent action is needed, particularly in cases of dishonesty, undue delay and failure to comply with the accounts rules.

Law relating to press freedom

The Bill also contains reforms to the law relating to press freedom. The Bill proposes to remove three unnecessary restrictions on the press and is further proof of the Government's commitment to freedom of the press.

At present, section 6 of the Defamation Ordinance provides that any person who maliciously publishes a defamatory libel shall be liable to imprisonment for one year and to pay such fine as the court may award. The offence does not require proof of an intention to defame nor is truth in itself a defence. The criminal law should not be used to protect reputations except from the most serious and flagrant attacks. Section 5 of the Defamation Ordinance already provides that a person who publishes any defamatory libel knowing it to be false shall be liable to imprisonment for two years. This is sufficient by itself and it is proposed that section 6 should be repealed, by clause 5 of the Bill.

The Bill also proposes in clause 6, to repeal section 3(1)(a) of the Judicial Proceedings (Regulation of Reports) Ordinance which makes it an offence to print or publish, in relation to any judicial proceedings, "any indecent matter or any medical, surgical or physiological details which are of a revolting or offensive nature or the publication of which would be calculated to injure public morals". This is considered to be an unnecessary restriction on the freedom of the press.

A further liberalization of the law affecting the press is found in the proposed amendment of section 19 of the Complex Commercial Crimes Ordinance. It is proposed, in clause 7, that publication of reports of a preparatory hearing of a serious and complex commercial crime case, which is now prohibited indefinitely, should be allowed after the case has been concluded.

Amendments relating to Bill of Rights Ordinance

Another important aspect of the Bill is the repeal or amendment of certain provisions which are inconsistent with the Bill of Rights.

Provisions in the Protection of Children and Juvenile Ordinance, the Probation of Offenders Ordinance, and the Community Service Orders Ordinance, require a person (usually a probation officer or social work officer) supervising a female offender to be a woman. These provisions assume that male officers are not suitable to supervise female probationers and deprive female probationers from receiving supervisory assistance from male officers. They are not considered to be objectively justified under Article 22 of the Bill of Rights Ordinance and are therefore discriminatory. Clauses 52 to 54 of the Bill propose that they be repealed. There will be sufficient safeguards against any possible abuse. A senior officer will be responsible for supervising the probation officer and will provide guidance to the officer as appropriate. Special arrangements can, if necessary, also be made for any particular probationer, after taking into account the interests of that person. The amendment also removes an operational problem, in that a female officer will no longer need to be assigned for a female probationer.

Another Bill of Rights problem relates to section 17 of the Summary Offences Ordinance. This makes it an offence for a person to be in possession of certain things, including an offensive weapon, "with intent to use the same for any unlawful purpose, or being unable to give satisfactory account of his possession thereof". In 1994, the Court of Appeal decided that the words "or being unable to give satisfactory account of his possession thereof" were inconsistent with the presumption of innocence in Article 11 of the Bill of Rights Ordinance, and had therefore been repealed. The Bill proposes in clause 50, to reflect this decision by deleting those words from the section. However, this will not lead to any weakening of the law relating to offensive weapons. Adequate provision to deal with such weapons is found in the remaining part of section 17 of the Ordinance and in section 33 of the Public Order Ordinance.

Clause 10 also amends section 123 of the Criminal Procedure Ordinance to limit the court's power to hold criminal proceedings in closed court. Under the Bill, this power will only be exercisable if the court is satisfied that it is necessary in the interests of justice or public order or security to close the court. The Bill also allows part of the proceedings to be in closed court and provides that the alleged offence, the verdict and sentence must be publicly announced. Under the new provision, there will also be a right of appeal against any closure order.

Other amendments

Mr President, I turn now to some of the more significant of the miscellaneous amendments in the Bill:

- clause 57 makes it clear that, where a deceased person has expressed a request that his or her body, or any part of it, be used for certain purposes, in particular for an organ transplant, that request should prevail over any views of his or her next of kin;
- clause 13 clarifies the power of the court to appoint a judicial trustee in respect of a charitable trust. Under the present law, it is not clear whether the court has power to appoint a judicial trustee in respect of a charitable trust. Since the appointment of a judicial trustee might be of great utility to a number of important charitable trusts, the existence of a power of appointment in such cases should be put beyond doubt;
- clause 4 raises the upper age of eligibility for the Superintendents' Discretion Scheme from 17 years to 18 years. Under this Scheme, police officers of the rank of Superintendent and above have a discretion to caution, rather than prosecute, young offenders in appropriate cases. The aim of the Scheme is to help rehabilitate young offenders. The Scheme was established in 1963 when, the target group was offenders under the age of 14. After two reviews, the age limit was extended to 16 in 1966 and to 17 in 1988. The

Scheme has achieved good results. In April 1993, an interdepartmental Working Group, headed by the then Solicitor General, was established to review the Scheme. The Working Group's Report was submitted to the Fight Crime Committee, which endorsed the recommendations in the Report in September 1994. The present amendment is proposed in order to implement an important part of the recommendations; and

- clause 56 contains a provision relating to the release of prisoners under supervision. It provides that when determining a prisoner's eligibility for release under supervision, any period he or she spent in custody before conviction, as well as after, must be taken into account. It also makes special provision for prisoners who are transferred from other jurisdiction.

As I said earlier, Mr President, this Bill is part of a continuous process of review. I will, from time to time, be bringing forward Bills of a similar nature in order to improve our legal system and to repeal obsolete provisions.

Mr President, I commend the Bill to the Council.

Bill referred to the House Committee pursuant to Standing Order 42(3A).

TELEPHONE (AMENDMENT) BILL 1995

THE SECRETARY FOR ECONOMIC SERVICES moved the Second Reading of: "A Bill to amend the Telephone Ordinance."

He said: Mr President, I move that the Telephone (Amendment) Bill 1995 be read a Second time.

The purpose of this Bill is to remove those provisions in the Telephone Ordinance which will no longer be required when the Hong Kong Telephone Company Limited is granted a Fixed Telecommunication Network Services or FTNS licence.

When the Hong Kong Telephone Company's monopoly expires on 30 June, local fixed network telephone services will be opened to competition. In addition to Hong Kong Telephone, Hutchison Communications, New T & T Hong Kong, and New World Telephone will be licensed to provide local fixed network services, including telephonic and other telecommunication services such as fax and data, on a competitive basis. The four operators will each be granted an FTNS licence to regulate the services they provide.

As the new FTNS licence contains comprehensive provisions for the regulation of competitive fixed network services by the Telecommunications Authority, most of the provisions in the Telephone Ordinance will no longer be

required and can be repealed. However, two provisions in the Ordinance will need to be retained. These are sections 22A and 24 which regulate the telephone numbering system and the price cap arrangement currently applies to the Hong Kong Telephone Company. The powers provided under these sections cannot be replicated in the FTNS licence and will therefore need to be retained in the Ordinance, but they will be amended and strengthened to take into account of the new competitive environment.

Clause 3 of the Bill amends section 22A of the Telephone Ordinance by replacing the current definition of the term "telephone numbering plan", which at present only refers to the numbering plan used by Hong Kong Telephone, by a more general definition embodying the numbering plans used by all FTNS licensees. To ensure that the Telecommunications Authority has the necessary power to regulate the fair and effective use of the telephone numbering plan by the competing networks, his role and responsibility to manage Hong Kong's telephone numbering plan will be specified in the Ordinance. Also, in view of the appeal of special telephone numbers to the public, especially those so-called lucky digits, it is necessary to provide an open and transparent system for the allocation of such numbers. It is proposed that the Secretary for Economic Services be given power to provide for the allocation of special telephone numbers by way of auction or tender. The arrangement will be similar to that for the allocation of special car registration numbers. The amendment only seeks to include an enabling power provision in the principal Ordinance. The detailed arrangements for the auction will be set out in regulations and Members will have an opportunity to consider them in due course.

Clause 4 of the Bill amends section 24 of the Telephone Ordinance to retain the power of the Secretary for Economic Services to specify a price control arrangement for certain basic telephone services provided by the Hong Kong Telephone Company, such as line connection fees and residential and business line rental charges. It is the Government's intention that Hong Kong Telephone's charges for basic telephone services will continue to be subject to a price cap as long as the company remains the dominant provider of such services. The power of the Secretary for Economic Services to regulate other "non-basic" services provided by the company will be removed. The charges of these services will be subject to market competition and regulated by the Telecommunications Authority under the FTNS licence.

Mr President, the amendments proposed in the Bill are essential to provide an effective regulatory framework for the introduction of local fixed network competition. With Members' assistance, I would very much hope that this Bill can be enacted before 30 June when the Hong Kong Telephone Company's monopoly expires.

Mr President, I beg to move.

Bill referred to the House Committee pursuant to Standing Order 42(3A).

PRIVATE MEMBER'S MOTIONS

PRESIDENT: I have accepted the recommendations of the House Committee as to time limits on the speeches for the motion debates and Members were informed by circular on 8 May. The movers of the motions will have 15 minutes for their speeches including their replies and another five minutes to reply to proposed amendments. Other Members, including movers of amendments, will have seven minutes for their speeches. Under Standing Order 27A, I am required to direct any Member speaking in excess of the specified time to discontinue his speech.

EMPLOYMENT FOR WOMEN

MRS SELINA CHOW moved the following motion:

"That in view of the lower labour force participation rate of women than that of men in Hong Kong which is mainly attributed to insufficient support service to women, this Council urges the Government to provide active assistance, in particular through training and retraining as well as identifying needs of the job market, to enable more women to enter the labour force and to relieve the pressure of labour shortage so as to achieve more effective utilization of the human resources of Hong Kong."

MRS SELINA CHOW (in Cantonese): Mr President, under the constraints of limited land, high population density and insufficient natural resources, it is amazing that Hong Kong can become one of the most prominent financial and trading centres in the world. One important factor leading to its success is that Hong Kong can make the best use of its greatest assets, that is, a powerful labour force which, under a relatively harmonious labour-capital relations, helps develop Hong Kong.

The reason for my moving this motion today is that, I have noticed a phenomenon of female labour force being wasted in Hong Kong today. I hope that through the debate today, Members of this Council can come up with some specific measures to help this portion of potential labour force re-enter the labour market. In this way, not only can the pressure of labour shortage in certain occupations be relieved, but more importantly the human resources of Hong Kong can also be more effectively utilized, the latter being the main factor for Hong Kong's success.

The labour force participation rate of women has always been on the low side. This may be attributed to the traditional Chinese mentality that "men should go out to work while women should stay at home to do the housework". It is especially the case when the emergence of a large number of nuclear families has made it even more pressing for married women to stay at home to look after their children.

However, as time progresses, the educational attainments of women is no longer lower than those of men. Besides, women generally believe their role and status in society have drawn close to men's. If it is only because of inadequate social support to women that makes them unable to join the work force, then it is too bad that their working potential will be wasted, their personal talent will be unable to be demonstrated, and their opportunities of choosing to develop their strong points will be taken away unjustly.

I must say that looking from the perspective of social function, to be a housewife is also a kind of contribution to society. My proposal to free them into the labour market does not mean to degrade the status and the importance of housewives. I only hope that our society can give them an opportunity to choose to work or not.

The problem of low labour force participation rate of women has been getting more and more serious in recent years. In 1986, the general labour force participation rate of women was 51.2%, which went down to 49.5% in 1991 and further down to 48.2% in 1992. This development seems to have inevitable relationship with industrial restructuring. Many female workers were employed in factories in the past. With the closing down or moving north of these factories today, these women will have a greater chance of being unemployed if they are not given any appropriate retraining. It is because generally they do not have the required skills or confidence in changing to other occupations; the employers in service trades may also have some reservations in employing a large number of workers originally engaged in manufacturing industry.

The present phenomenon is that the labour force participation rate of women begins to slow down gradually at the age of 25, then drops abruptly from the age of 30 and becomes stable or even goes up slightly at 40. These figures reflect the three stages of life of women, namely getting married, giving birth to children and seeing children grown up. When their children enter secondary schools, they will be more at ease going out to work again.

There are grounds to support this point. In a survey conducted in 1993 by the Census and Statistics Department, it was found that the main reason for women giving up employment was looking after children or the elderly persons, which was followed by increase of housework. These two reasons accounted for as much as 40% of the cases.

Among the respondents who were then unemployed but wished to go out to work, two thirds were housewives. Whether they worked or not mainly depended on the flexibility of working hours, whereas high salary was only their second concern. They would consider whether the working location was near to their residence, and whether they could entrust other people to look after their children.

The above information directly obtained from women clearly reflects that the low labour force participation rate of women is due to insufficient government support, which makes them unable to release the burden of housework and the work of looking after children and therefore cannot work at ease.

In regard to the overall employment situation in our society, we have to realize that the present situation is a kind of co-ordination between "persons hunting for jobs and jobs hunting for the right persons". The failure for matching is due to the fact that the Administration cannot identify the need of the job market nor the kind of people that requires government assistance in employment or changing employment.

The Liberal Party has conducted an on-the-street survey in which more than 700 women were interviewed. Among those who were or had been unemployed, half of them gave the reason that they had to stay at home looking after their children or family, while more than 20% were declined employment as the employers feared that their performance would be affected by family burden. One of the questions in the survey asked was whether employers were prone to employ male candidates. And surprisingly enough, no respondent chose this as an answer. This result reflects that the so-called sex discrimination in fact refers to the mentality of employers who are more concerned about the fact that women cannot concentrate on work due to family matters than their working ability.

Therefore, we must spare no efforts in changing the long-established male-dominant employment structure so as to help release the women from families into society.

Simply shouting a few slogans against sex discrimination cannot solve the problem. One has to understand why the situation of so-called sex discrimination arises.

The survey conducted by the Liberal Party also revealed that in respect of the 25% of women who had been unemployed, the reason for their unemployment was either incompatible working hours or the employers claimed that they did not have enough experience or the required skills. 75% of the respondents criticized the Administration for not providing enough assistance to help married women to re-join the labour force. And 100% of the respondents reckoned that the work of the Local Employment Service of the Labour Department should be reinforced.

The Liberal Party has already forwarded the survey results to the Education and Manpower Branch for reference. But in view of the survey findings, the Liberal Party has drafted separately a recommendation on assisting women to join the workforce, that is, Recommendation on Retraining Program for Domestic Helpers. We have also sent the paper to the Education and Manpower Branch, the Labour Department and the Employees' Retraining

Board. Their response is positive. The Liberal Party will continue to put forward detailed proposals to the Employees' Retraining Board with a view to creating employment opportunities for more women.

I have to emphasize that this retraining proposal for domestic helpers is only one of the ideas, and definitely not the only one for improving employment opportunities for women. The Liberal Party will continue, with greater efforts, to explore other means of assisting women to join the workforce. We also hope that other Honourable Members will, with a pragmatic attitude, act more meaningfully by putting forward positive proposals instead of arguing whether there is any sex or age discrimination.

During the debate on labour policy last week, I mentioned preliminarily this retraining programme for domestic helpers. But disappointingly, some Members, who always claim themselves to be upholders of sex equality, described scornfully that domestic helping is a kind of humble job. Such male chauvinism which states that housework is to be done by wives is out-dated and not in the fashion. Besides, there is no such distinction as noble jobs and humble jobs. It all depends on whether society has such a market or not. Do these Members think that only those foreign women are humble enough to do these humble jobs? If this is not discrimination, what is it?

As a matter of fact, on the question of demand for domestic helpers, usually men do not understand how large the demand is. It is perhaps they do not know where the shoe pinches.

With the reduction in the size of residence and family, domestic helpers nowadays are no longer expected to carry out such minor duties as pouring tea or hot water. Instead, in individual family, different kinds of housework can be allocated to different persons according to its special need.

This is exactly the concept behind the retraining programme for domestic helpers proposed by the Liberal Party, that is, to become more diversified and specialized. If the Administration is prepared to carry out this retraining programme, it has to carefully consider these two main points so that the courses are streamlined and refined to enable the trainees to really learn and be proficient in a particular skill.

A special merit of this programme is that behind the voices of women facing age discrimination, it can provide an employment opportunity to the more mature women. When employing domestic helpers, will there be any housewife who does not want to employ a more mature helper? It is because they are more stable, mature and reliable. In this occupation, it is the young women who may be discriminated!

As regards how this retraining programme can be promoted in the market and how the successful trainees can be assisted in finding employment, it all

depends on whether the Administration is willing to invest money in publicity and co-ordination work.

As a matter of fact, the Administration can first launch a pilot scheme in certain districts which have been identified to have potential demand for domestic helpers as well as potential labour force to participate in the programme. This approach will enable the trainees to get employment in the vicinity of their residence after completing the course, thus saving the money and time required for travelling.

Basically, this is an innovative concept. Regional co-ordination in job-hunting and careful matching of market need render the programme flawless.

The retraining programme for domestic helpers has only explored a new area of retraining. Naturally, it will be better if there are more of these courses that can meet the needs of the market. For instance, in the wholesale, retail and catering industries, female employees account for 45% of the total number of employees. An association for department stores and retail industry has once made enquires to the Employees' Retraining Board to find out whether there are courses that help train people for the retail industry. Up to now, there has not been any feedback from the Board. Naturally the result is that no training course for salespersons has ever been provided. It is indeed necessary for the Administration to conduct an overall assessment of the existing retraining programme to see whether it can meet the manpower needs of various sectors of the society.

Other Members of the Liberal Party will later on look into the women employment problem from other angles. The Honourable James TIEN will speak from the angle of industrial employers; the Honourable Henry TANG will study the issue in the aspects of education and training, and the Honourable Mrs Miriam LAU will talk about the necessary social support and services to women.

Mr President, with these remarks, I beg to move.

Question on the motion proposed.

PRESIDENT: Mr LEE Cheuk-yan has given notice to move an amendment to the motion. His amendment has been printed in the Order Paper and circulated to Members. I propose to call on him to speak and to move his amendment now so that Members may debate the motion and the amendment together.

MR LEE CHEUK-YAN moved the following amendment to Mrs Selina CHOW's motion:

"To insert "the prevalent discrimination against women by employers and" after "attributed to"; and to delete all the words after "this Council urges the Government to" and substitute with "adopt positive measures that eliminate age and sex discrimination to enable women to enjoy equal employment opportunities"."

MR LEE CHEUK-YAN (in Cantonese): Mr President, I move to amend the motion standing in my name on the Order Paper.

First of all, let me quote some figures in the 1994 Report prepared by the International Labour Organization: the labour force participation rates for female in the United States, Singapore and Japan were 55.7%, 50.6% and 50.3% respectively while the same rate in Hong Kong was just 46.5%. According to the latest figures in the Hong Kong Monthly Digest of Statistics, the employment rate for women in the territory was 47.7% between November 1994 and January 1995.

Hong Kong lags far behind other developed countries in terms of female employment rate. The current rate is also lower than those in the past years. According to the Census Report published by the Census and Statistics Department, employment rates of local women in 1981, 1986 and 1991 were 49.5%, 51.2% and 49.5% respectively. Up to now, that rate has yet to rise to the 50% level.

Local male employment rate stands at 80% whereas more than half of our women do not have a job. By jobs, we mean paid jobs, as many women are doing household chores without being paid. The difficulties encountered by local women in seeking employment are reflected in their low employment rate in comparison with their counterparts in the United States, Japan and Singapore. That rate also unfavourably compared with those in the 80's and is much lower than the rate for men. The Government must take this problem seriously and address it on an urgent basis.

The importance of creating more employment opportunities for women does not lie solely in the need for economic development, but rather in the embodiment of equality between both sexes. Both the husband and wife should shoulder the household expenses as far as household economic structure is concerned. In the face of the escalating cost of living and high property prices, if a couple is underemployed, they can hardly afford the family expenses. In the case where the wife has difficulties in getting employment, more pressure will be brought to bear on the husband, who is often forced to take up more than one job or work overtime frequently to meet the family's financial needs, which in turn renders a harmonious family incomplete.

From an equality point of view, only by enjoying financial independence can women free themselves from their traditional subordinate position. As a matter of fact, some existing social problems, such as wife battering, the proliferation of "keeping second wives" and so on, have been aggravated by the fact that women do not have financial independence. In families where both husband and wife work, the husband is no longer the "absolute authority" in the family as they were in the olden days. Instead, they will talk things over. Both the husband and wife in such family have equal rights to speak and decide on family affairs. Families of this kind usually enjoy a more harmonious relationship.

However, the fact confronting us is that women have difficulties in securing employment, many of them cannot find a job. Such a situation can best be summed up as "jobs are hard to come by for women over 30". The experience in finding jobs has deeply hurt the feelings of these women. Therefore, the subject of the motion as moved by the Honourable Mrs Selina CHOW today is a timely one. However, it is a pity that she has totally missed the point of the issue. Her judgement in this respect can be described as "making an incorrect diagnosis and prescribing the wrong medicine", which results in a "wrong expression of kindness".

Inadequate support service, as pointed out by Mrs Selina CHOW, is certainly not the only barrier for women to getting jobs. That is why, in my opinion, she has made an "incorrect diagnosis". In fact, the biggest barrier is the ageism of employers against women at the age of 30 or above which seems to be a dangerous age of women. The older they get, the more difficult for them to get a job. However, it seems strange that the original motion fails to mention a single word about ageism which vexes women the most, in total disregard of the existence of this problem. Besides, the original motion also ignores the situation where women are discriminated against on grounds of their marital status and family state, as well as the unfair treatment befalling women in terms of pay and opportunities for career advancement.

Mrs Selina CHOW has not only made an incorrect diagnosis, but also prescribed the wrong medicine, for she thought that the employment problem of women could be easily overcome through the implementation of training and retraining schemes. However, the existing retraining scheme has been rendered "impotent" by the Government itself. As long as the Government continues to bring in foreign workers and employers continue to discriminate against women on grounds of age and sex, then the best retraining scheme in the world will be nothing more than a useless ornamental vase. The original motion based on the premise that the labour shortage problem could be alleviated through retraining women, is most unacceptable to woman workers in general and is neither here nor there. Given the fact that local unemployment rate has come close to 3%, reaching the highest level in 9 years and many women simply can not get a job, there is no such thing as labour shortage problem, it is just a myth invented by employers to back up their insistence on importing labour.

The idea of Mrs Selina CHOW that the retraining scheme could help women to get a job is a clear reflection of her "wrong expression of kindness." In fact, her words are just "empty talks". Women are still struggling uphill in seeking employment.

In my opinion, the provision of more support services is only part of the solution to the problem of low female employment rate. How can women be released from the family and enter the labour market without the provision of additional places at child care centres? At the same time, we must take action against employers who discriminate against women by legislative measures which provide the best safeguard against discrimination. The findings of a survey recently completed by the Woman Committee of the Hong Kong Confederation of Trade Unions indicated that most woman respondents were in favour of the introduction of legislation banning ageism. As a result, women who have been made redundant by the relocation of manufacturing industry to the north, and those who have given up jobs on a temporary basis to take care of their children can get rid of one of the barriers when returning to the labour force.

Moreover, I hope the Government will actively look into the possibility of putting in place laws and measures to protect the interests of working women, such as introducing legislation concerning equal pay for equal work and plugging the loophole in the existing laws governing maternity benefit, the current penalty against employers for unfairly dismissing pregnant workers, for instance, is too light. These measures should be useful in improving the employment situation of women.

While legislation can serve as a warning to some unscrupulous employers, the way to root out the issue of women employment lies in the cultivation of an equality concept between both sexes in our society. It is therefore very important that such idea should be instilled into our children. In my opinion, the education authorities should overhaul the contents of text books, curriculum and teaching strategy so as to remove the mentality of sexual discrimination and break the gender differences in the selection of certain subjects, so that male and female students can share the same desire in learning and career development. In addition, if it is widely accepted that both men and women should share the same responsibility for the family women will not be discriminated against by employers because of pregnancy and the need to take care of the family. Only when both man and woman share the family responsibility will women be able to avoid becoming the unilateral victim of discrimination.

The promotion of equality between men and women must start with the provision of equal employment opportunities. I hereby urge the Government not to turn a blind eye to the difficulties encountered by women in finding jobs. It should adopt a package of measures, including the introduction of legislation

banning ageism and sexism, abolishing the labour importation policy, creating more job opportunities, providing more support services to help housewives return to the labour market, reforming the education system and promoting equal rights concept. Only through the adoption of "multi-pronged" measures will women be able to enjoy equal employment opportunities.

With these remarks, I move to amend the original motion.

Question on the amendment proposed.

MRS PEGGY LAM (in Cantonese): Mr President, as a member of the womankind, I hold the belief that the social status of women should be affirmed and they should enjoy financial independence. But the current employment situation of women is miles away from my ideal.

"A woman can hardly find a job on reaching 30" is neither a fabricated slogan nor isolated instances. It is a general social phenomenon which can be seen anywhere. There is a group of women beyond 30 years of age with low academic qualifications who are generally discriminated against by employers of all trades. When seeking jobs, they face obstructions of every description created by the employers. Although the employers find that they meet the job requirements, they will simply shake their head after learning that the women have reached 30 years of age. Even if the women are not refused employment, they are offered terms which are much less favourable than what ought to be. A typical example is that a full-time job is often offered as a part-time job remuneration on an hourly basis. The pay for the job is low, just \$10 to \$20 per hour, and work is so arranged that the employees have only to work for a limited number of hours so that they will never be eligible for protection under the law.

This shows that employment difficulty encountered by middle-aged women will transform into a kind of discrimination against women, an exploitation taking advantage of the situation or a means to substitute cheap labour imported overseas for local women.

While our middle-aged women have been rendered redundant and encounter greater and greater difficulties in finding employment, we also hear the employers complaining about the difficulty in recruiting employees. I think there are two reasons for the contradictory situation of "persons hunting for jobs and jobs hunting for the right persons". Firstly, our women workforce is out of tune with the market. Secondly, there is competition in an abundant supply of legal and illegal workers.

Over the years, Hong Kong has seen a rapid economic restructuring which has knocked out these female workers who were originally working in the manufacturing sector. They were then made to face the difficulty in finding

employment in other trades. Vacancies at the basic level in the services sector should be their target. However, as the academic qualifications of these female factory workers are generally low and the job nature in the services sector is fundamentally different from that in the manufacturing sector, they may not be able to adapt to the new working environment. I believe this is the reason why these middle-aged women are turned away by the employers. At the same time, while their employment opportunity is becoming slim and the employment terms offered to them are getting worse, the problem that they are out of line with the requirement of the market is getting more and more serious. Psychologically or in terms of capability, they are unfit for the market.

The Government is duty-bound to break this vicious cycle. The fact that 70% of the applicants for the retraining courses are female reflects the women's positive attitude in learning. Also, the effectiveness of these courses is also tentatively affirmed. The Government should keep on strengthening these retraining courses and enlarge its employment advisory services. The Employees Retraining Board should be directly subsidized by the Government as a long-term manpower resources improvement. Presently, employers who have hired foreign labour are made to provide financial support to the Board. Such a system carries a strong punitive implication which is misleading and irresponsible. It also affects its financial stability. Employee retraining is part of the Government's policy of manpower development, I see no reason why such responsibility should be shifted to those employers who have imported foreign workers.

Competition in an abundant supply of legal and illegal workers is the second reason leading to difficulty in employment faced by middle-aged women. It is an undisputable fact that foreign labour has weakened the employment opportunity of local women. In the present Hong Kong situation, I think abrupt cancellation of labour importation policy is obviously not appropriate. A top priority task is to close the loopholes. But the most contemptible part of the policy is that unscrupulous employers often pretend to hire local workers by setting some unrealistic and harsh requirements to make recruitment difficult and then apply for imported labour on the pretext that there is recruitment difficulty.

More urgently, we should ban foreign domestic helpers from engaging in non-domestic work and ban foreign nationals or Chinese holding double entry visa from working illegally after arrival in Hong Kong. By just walking in the street, you can see foreign maids selling vegetables in the market or serving as sales assistants in small shops everywhere. These are true "cheap labourers" who are just like numerous pests nibbling away women's employment opportunity in the dark.

It is our time-honoured economic philosophy that fairness and freedom should be upheld. The Government should make efforts to create a fair social environment. At the same time, it should protect women's employment rights by implementing positive supporting measures aiming to help middle-aged

women integrate into the labour market. By implementing this two-pronged measure, we can push the economic productivity of women in Hong Kong to the fullest extent so that our labour market can grow more healthily.

Mr President, these are my remarks.

MR TAM YIU-CHUNG (in Cantonese): Mr President, from another point of view, today's debate can be regarded as a continuation of our debate on importation of foreign labour held last week with the focus now being shifted to the female workers who are adversely affected by such policy. They have gradually become workers at risk, which means that they, entering the labour market when our economy is booming, will have to bear the brunt of recession during which they will be laid off. They will then either stay at home as housewives or work as part-time employees to help support their families in such a way that they have become a workforce in reserve.

As a representative of the Labour Functional Constituency, I welcome Mrs Selina Chow's motion moved today which pinpoints the insufficiency of support service to women and urges the Government to provide active assistance through training and retraining to enable more women to enter the labour market. Notwithstanding the abovementioned efforts, if the Government continues with importation of labour, the employment opportunities of women will continue to be affected. Furthermore, I think the Government should adopt some positive measures to eliminate discrimination against female job-seekers on grounds of age and sex.

Official statistics show that 17 000 female workers were unemployed in the fourth quarter last year, representing 1.5% of the female workforce, which is an improvement compared with the third quarter. However, I have some reservations about these official statistics as many housewives are in fact willing to work. But facing unreasonably depressed wage rates, they prefer to be housewives. Because of this situation, the median age of male workers is 37 while the median age of female workers is 32. Besides, the employment rates of unmarried women aged from 20 to 29 and from 30 to 39 are 89% and 95% respectively. However, the employment rates of married women in the same age groups are 61% and 51% respectively. These phenomena explain why female labour force participation rate has been much lower than male's.

The business community has been in support of the government policy of positive non-intervention. but I cannot accept that once their own interests are at stake on the issue of labour supply, they ask for government intervention and importation of labour. In the late 1980s and early 1990s, a structural change of our economy began to emerge. Unemployment or underemployment has been haunting our manufacturing workers since our manufacturing industries first began to relocate to China. Meanwhile, the services sector, which is booming, need a vast number a workers. Of course, the growth of the services sector should absorb workers from the manufacturing sector, especially the female

workers. However, as employers are able to hire young and lowly paid foreign workers, local female workers, who are less competitive, become the losers. In recruiting their employees, the employers often set some unreasonable requirements. For instance, the applicants must be below 30 or the employees are to be paid on a daily or even hourly basis, instead of on a monthly basis. Some women, when trying to find casual jobs with supermarket, are surprised to learn that the hourly rate for female employees aged above 30 is \$2 less than the hourly rate for their counterparts aged below 30. Obviously, the employers are exploiting the female employees by taking advantage of an over-supply of labour.

I would like to examine the official statistics in the following way. Among the 20 000 foreign workers, a quota of more than 8 800 is assigned to restaurants, hotels and retail industry, representing more than 40% of total foreign workers. During the fourth quarter of 1994, the number of people unemployed in the wholesale and retail industries, restaurants and hotels reached 14 000, representing 29.7% of the unemployed population. This reflects that unemployment rate is the highest in trades which have imported the largest number of foreign workers. These trades should have the greatest capacity in absorbing the redundant female workers who were originally working in the manufacturing sector. And 52.5% of those unemployed have indicated that they are willing to work in these trades or the services sector. But due to importation of labour, the surviving workers in these industries are now finding that they might also lose their jobs. The problem of exploitation suffered by female workers has therefore become more serious.

Mr President, the Hong Kong Federation of Trade Union has been in support of the retraining scheme as it helps workers change jobs. However, staff of the Employees Retraining Board have also admitted that the objective of Job Seek Skills Course, which is the most popular one, is only to provide some basic interview skills, psychological preparation after changing job and repartee skill. But what is more important is that the unemployed workers can successfully find a new job and be able to benefit from on-the-job training in a new working environment. Nevertheless, as the employers need not worry about labour supply because they can hire imported workers, they hold down the wage rates of the workers. So no matter how many courses of this kind the female workers have taken or how well prepared they are, they eventually have to compare the economic benefits gained from work with the need of caring for their children at home before they can make a decision.

Our female workers need equal opportunities in employment, and our society need their more active participation in the labour market. The Government is duty-bound to meet both needs.

I so submit.

MRS ELSIE TU: Mr President, I think the motion pinpoints a problem about which all of us have recently expressed concern, namely the need to assist women to join or rejoin the workforce, especially those who have lost out during the period when they were bringing up their children. These women need retraining and they need to be assisted in rejoining the workforce. In some cases they need child care centres, if their children are still very young. The mover of the amendment has himself voiced these problems, and has blamed them on the importation of labour in very recent days.

The amendment seems to be on a different subject, namely, age and sex discrimination by employers which problems will be dealt with by this Council and the different context being included in Ms Anna WU's Equal Opportunities Bill.

I find it a pity that a perfectly good motion, which I am sure we all support, has been twisted beyond recognition by an amendment which could have formed a separate motion on a different aspect of the same problem, that is, women's rights.

Those who split the Council along political lines do not seem to have heard of the destructive political weapon named "divide and rule". I regret that this weapon is all too often used in this Council.

I support Mrs CHOW's motion, and I also agree with that part of the amendment which calls for the elimination of age and sex discrimination. I do not agree that this amendment should eliminate, as it does, the call for training, retraining and finding employment for woman. Mr President, the motion and the amendment both have merit and that makes it very difficult for Members with no political agenda to decide how to vote. I hope and trust that the age and sex discrimination issue will soon be raised again in this Council in the form of legislation.

Thank you, Mr President.

MR CHEUNG MAN-KWONG (in Cantonese): Mr President, the saying that "a woman finds it hard to obtain a job on reaching 30" truly describes the current situation of women workers in Hong Kong. A woman at the age of 30 is still young, but she is already regarded as too old by the employer and is forced to accept an early retirement at the age of 40. This situation is already ridiculous in itself and this smacks of discrimination and miseries.

Today; I would like to tell five true stories so that more people can understand the difficulties faced by middle-aged women.

First, there was a woman worker aged 35. She applied for the post of waitress in the Satay Hut. The job only required her to take orders using a micro-computer. During the interview, everything went well until the

employer found out her true age from her identity card. Instantly, the employer indicated that "it does not look good" for a woman in her thirties to serve as a waitress and asked her to serve in the bar where she would receive a lower salary and would have no contact with the customers.

Second, a female reporter of an English newspaper went to a number of major chain stores for job interviews. She made false claims that she was 40. As a result, none of the stores offered her a job. A well-known furniture company even told her that over-aged salespersons could "hardly match" the style of fabric furniture and so they could not offer her employment.

Mr President, in the past, people who were prejudiced against women regarded women as "decorative vases". Now, these people even went further and considered women over 30 as outdated vases. These two stories demonstrated that there was not only age discrimination, but also sex discrimination. Theoretically, women eliminated from the manufacturing industry as a result of the northward re-location of factories can be absorbed by the expanding service industry. But in fact, what the service industry needs is the youth of women, not hardworking labour. The only choice left for these women workers was to look for part-time jobs instead of full-time jobs.

Mr President, I shall now tell the third story. A woman in her forties went for an interview for the post of full-time messenger in a company providing courier service. When the employer learnt about her age, she was immediately asked to work part-time. That company has apparently rounded up a number of middle-aged housewives and made them work part-time instead of full-time in order to cut expenditure.

Nowadays, part-time work has become the trend. It is insecure and unstable and offers a low pay. Many fast-food shops employ middle-aged women as part-time workers and pay them \$13 to \$17 per hour. These workers have to work four to six hours a day and seven days a week, earning a salary of only \$2,000 to \$3,000 per month, which is even less than that of a Filipino maid. How can they make a living? Many of them even have to support the family with this salary.

Hence comes the fourth story. A mother of two has to take up three part-time cleaning jobs to support the family after she has been eliminated from the factory. Everyday, immediately after she finished work in Kowloon Bay, she went to work in To Kwa Wan and on Saturday evenings, she took up yet another job in Tsuen Wan. She earned a total of \$5,000 per month, only equivalent to the salary of a low-paid full-time job.

If we look at the matter from a wider angle, we can see that women of the lower class who are striving to make a living are no different from their husbands. They are being hit by the importation of foreign labour and they fall victim to age discrimination. With their husbands suffering from unemployment, not only do women have to "hold up half the sky", they also

have to support the whole family. My fifth story concerns a family in which the husband was a dress pattern cutter in a garment factory. The family used to lead a stable life. However, as factories moved northward, her husband was repeatedly unemployed. He later found a job as a delivery worker and his income was greatly reduced. Recently, he was even dismissed by his employer because he had hurt his waist while delivering goods. As a result, his wife has to do two part-time jobs to support the family. Life is becoming harder and harder for them.

Mr President, as a matter of fact, incidents similar to these five stories keep on occurring around us. Why should it be so difficult for women over 30 to find a stable full-time job? Age discrimination and sex discrimination which have become more intense with the importation of foreign labour are directly felt by these women and they are also factors which have made them lose their dignity. In fact, entering into the thirties should mark the beginning of a new life with a family. It has however turned out to be the beginning of unemployment, part-time employment, low pay and poverty. How would these women be able to endure the harder days which are yet to come?

The Honourable Mrs Selina CHOW said it was misleading and wrong for the Honourable LEE Cheuk-yan to move an amendment concerning age discrimination. She thought that only a few employers are guilty of age discrimination. However, I clearly remember that the Honourable James TIEN, who is also a member of the Liberal Party, has said in a meeting of the Manpower Panel of the Legislative Council that his company would also prefer younger salespersons if a choice was available. Mrs Selina CHOW thought that the low participation rate of women in the labour market was caused by insufficient support services provided by the Government. That is a simplification of the problem. The crux of the problem of low employment rate for women is the abundant supply of imported cheap labour in the market, making it possible for employers to raise unreasonable demands on age and qualifications, thus depriving the employment opportunities of middle-aged women. If our attention is diverted from the crux of the problem and if we allow imported labour to intervene the market and if we are not to implement any measures to prevent age and sex discrimination, Mrs Selina CHOW's proposal of training and retraining and the Pilot Job Matching Programme will simply become decorative vases or rouge on the cheeks of an anaemia patient. Those are stopgap measures which do not get to the root of the problem.

Mr President, with these remarks, I support the amendment moved by Mr LEE Cheuk-yan.

MISS CHRISTINE LOH: Mr President, I prefer Mr LEE Cheuk-yan's amendment to Mrs Selina CHOW's motion because he puts his finger on the point, that is, that there is sex and age discrimination. Mrs CHOW merely says that the problem is "attributed to insufficient support service to women". That is a very weak and untrue assertion. She is avoiding taking a stance on the

reality of discrimination in her proposed motion. That is a pity, because it gives the impression that the Liberal Party is not fully behind using legislation to deal with discrimination, particularly age discrimination.

Mrs CHOW's main response to the problems women face in the work place is for the Government to provide "training and retraining" assistance to women. But that is not nearly going far enough. The root of discrimination goes much deeper. Mrs CHOW admits that it is true, so it is strange that she does not propose to deal with the root of discrimination more widely and more deeply.

Women's economic inequality is rooted in the social and cultural pressures which force them to balance career choices with a much larger share of child care and housework. Mrs CHOW again alluded to this. The Sex Discrimination Bill proposed by the Government and Ms Anna WU's Equal Opportunities Bill will help to tackle overt discrimination in the work place. We must have legislative protection as a backdrop, against which we can then introduce various measures to eliminate discrimination over time. To expect to be able to eliminate sex and age discrimination without the force of law, relying purely on persuasive measures, is insufficient.

It may be observed that in countries which have had anti-discrimination laws for years, women still suffer employment inequalities. This is not an argument against legislation. But it does require us to identify the reasons for continuing discrimination even with legislative protection. The reason, I suggest, Mr President, is that the cultural expectations of women encourage sex stereotyping in education, and in the labour market, resulting in women being put at a lifetime disadvantage in terms of earning power, and job opportunities, when compared to men.

The significant decrease in the labour force participation of women in their 30s in Hong Kong testifies to the fact that women must often give up their careers in order to have children. If those women return to work later in life, they are still expected to make career sacrifices in order to balance their larger share of household responsibilities. Statistics show that women, on average, never regain wage equality, and they never attain the same level of job promotion, as men.

There is no doubt that women wish to care for their children, as do men. Women go to work outside the home because of economic necessity, career fulfillment, or more often, both. The goal must be to enable women, who choose to have children, to be able to care for them while having the same career opportunities as men.

Broadly speaking, gender equality is only possible with an equal partnership within the home between men and women. The concept of "women's work" must be eliminated. The Government can play a significant role in presenting images and examples of men sharing equally in housework,

and in child care. Further, the Government should recognize the value of household work to the community as a whole. As a start, the Census and Statistics Department should adjust its periodic General Household Surveys to measure time spent performing household work and children, by gender. This will make women statistically more "visible". And, it will help public policy planning.

The objective must be that women be able to have children and keep their status within the workforce. This means job security, ensured by sufficient maternity leave, affordable day child care, and legislation which prohibits age and sex discrimination. It is wasteful that women with work experience are not given the opportunity to return to a fulfilling career if they so wish, and be able to apply their skills.

Mr President, Mrs CHOW's suggestions therefore fall short of seeking social transformation which is what is needed to really give women true equality in the home and in the work place. Using the law to attack discrimination is a necessary first step. The Liberal Party denies that. I cannot support such a position. The Liberal Party has apparently published a position paper as Mrs CHOW tells us on "Training and Re-training". I applaud that effort. However, it will not go far enough in dealing with age and sex discrimination. I, too, will publish my action plan on gender equality in the very near future.

As regards labour importation, last week we debated this issue. Last week I suggested that I would have supported Dr HUANG Chen-ya's motion had he proposed to temporize labour importation rather than to seek to abandon it straight away. I proposed to the Financial Secretary today at the meeting held with him that perhaps the Government could consider temporizing the labour importation scheme by a year, so that employers and employees can sit down together to work out their problems and understand each other's respective interests.

Mr President, I support the amendment.

THE PRESIDENT'S DEPUTY, MRS ELSIE TU, took the Chair.

MR MICHAEL HO (in Cantonese): Madam Deputy, the original motion mentioned that the lower labour force participation rate of women is mainly attributed to insufficient support service to women, and focused its view on the provision of training and re-training. The Democratic Party does not agree to this view. At a glance, the motion seems to aim at fighting for justice on behalf of those women who fail to find jobs. While supporting the importation of labour, the Liberal Party tries to draw a red herring across the path by focussing on the provision of training to women and moving a motion which seems to assist the employment of women. The public is of course capable of judging whether or not the Liberal Party is actually staging a show.

Since our industries undergo transformation, those female labour who have been working in the manufacturing field in the seventies are now over 40 years old and are facing unemployment problem. If we are seriously aiming at assisting these manufacturing labour to switch jobs following industrial restructuring, we can in fact find a lot of suitable places within many different trades such as the restaurants and the retail industry to accommodate them. However, all these positions have now been taken up by foreign labour. I learn from a recent television programme that even convenient stores are beginning to employ foreign labour. If while we provide training for women to take up jobs in the retail industry and we continue to import foreign labour, what is the point of training up the women?

The Democratic Party also wants to discuss the problem of foreign domestic helpers. First of all, we oppose that foreign domestic helpers should be employed in jobs not within the scope of domestic duties. The Government should raise the level of penalty and step up enforcement action.

Moreover, we cannot lend our support to the proposition that the importation of Filipino helpers has seriously deprived local women of their opportunities in securing jobs as domestic helpers. In fact, the existing policy on foreign domestic helpers has enabled more local women to join the workforce and helped boost the employment rate of women. At present, local women may not replace foreign domestic helpers because most of the families currently employing foreign domestic helpers require them to work long hours to take care of the children and the elderly. Local women cannot really satisfy the need in this aspect and they are not willing to work as "live-in" domestic helpers, as what the Filipino domestic helpers are currently doing. Moreover, domestic work is not the only choice open to women seeking to switch jobs or awaiting employment. We are not taking into account the genuine employment need of the women if we only arrange female workers to be engaged as domestic helpers at our own wishful thinking while disregarding their levels of skills and education and their career choice.

We should not distinguish between good and bad jobs, but the level of income remains an important factor to be taken into consideration. Right now, the median monthly wages of 74% of live-in domestic helpers is \$3,200, which means a difference in the range of \$1,000 to \$2,000 when compared with the monthly salary of about \$5,000 to \$5,500 in the manufacturing industry. To put it in simpler words, if the workers currently working in the manufacturing industry are to take up jobs as domestic helpers, their income would of course drop drastically. The female workers are not only asking for job opportunities but they want to take up jobs with a reasonable level of income. If one claims that he hopes to find "specialized jobs" for female workers but at the same time brushes aside the consideration of the income level of the female workers and forces them into taking up low-salaried jobs, he is in fact dealing a heavy blow to the interests of women.

The proposal of training housewives to take up the jobs of domestic helpers is in itself a hidden form of serious sex discrimination. Many women possessing secondary or tertiary educational level, who leave the labour market for a short time due to the need to bring up children or as a result of other family needs, will be already middle-aged by the time they re-enter the job market, and would therefore face employment difficulties because of age and sex discrimination.

While housewives take up domestic duties with no salaries, they are not born to be housemakers. To regard them as the best reserves for domestic helpers is ignoring their needs and evading the problem of age and sex discrimination.

The Democratic Party supports the Honourable LEE Cheuk-yan's amendment and opposes the Liberal Party's original motion. We do not agree that the problem lies in the provision of training or support services. With foreign labour importation policy in place, nothing will be effective for assisting women to find jobs. This arrangement is both contradictory and pointless. If the amendment is not carried, the Democratic Party will oppose the Honourable Mrs Selina CHOW's motion.

MRS MIRIAM LAU (in Cantonese): Madam Deputy, women contribute to an important element of human resources in the community. Regrettably, the overall labour force participation rate of women is consistently lower than that of men. From the data of the Census and Statistics Department, the labour force participation rate of younger women (aged below 25) is on a par with that of men, which is around 80%. Yet, the participation rate of women above 25 begins to drop all the way to below 50%, showing that many women tend to leave the labour market after they got married. It may be partly due to the fact that some women remain psychologically constrained by the stereotype that women are born to bear children and take care of the family. It may also be that they yield to reality and have no alternative but to go home to bring up their children and take care of the elderly. For women who have to leave the labour market of their own accord, it is of course a matter of their personal preference. But for those who are forced to give up their work to succumb to the reality, has the Government ever been concerned about their needs and has it provided them with any assistance?

In fact, a woman's family and her career are not mutually exclusive. I believe that many women would not have to give up their jobs if sufficient support services are available in the community to ease their burden of taking care of families and children. However, child care service, after-school care service and elderly service in Hong Kong have long been inadequate. Under such a circumstance, women who are better off can take on foreign domestic helpers to help with the housework so that they can go out to work. But those who do not have the means to do so are forced to stay at home and give up their jobs. This is most unfortunate.

This Council has criticized time and again the insufficient provision of child care service and after-school care service. Many people have called for an extension in the service hours of child care centres and a higher degree of flexibility in occasional child care service. Yet, these measures do not help much in improving the situation. In overseas countries, in order to encourage women to continue working, many employers set up nurseries near their offices so that women can work without having to worry about their children. Has the Government examined the feasibility of this proposal? Has it ever encouraged and assisted employers to set up this kind of service? My view is that if the Government is willing to allocate more resources for the provision of more child care and elderly services to lighten the burden of women, the chance of women remaining in the labour market will be greatly enhanced. As a result, the labour force participation rate of women will increase accordingly.

For women who have left the labour market for a long period of time and who want to rejoin the workforce, they will surely confront a myriad of problems, such as deficiency in skills, problem of adaptation and lack of confidence and so on. Although the Government has provided retraining courses, it seems that the scheme is not too effective. Many workers who have been retrained complained about not being able to find a job but in the meantime many employers are grumbling about not finding the appropriate persons. It is high time for Government to conduct a review seriously to identify the problems and examine if there is a need to make changes to the scope of retraining courses or whether it has wrongly assessed the needs of the labour market, so that pertinent measures can be adopted to make the retraining scheme more effective.

I think it is worthwhile for the Government to consider launching the domestic helper retraining scheme as proposed by the Liberal Party. Some have criticized that domestic work is an inferior kind of job and held that there is no reason to lead women astray by suggesting them to take up work of this sort. I absolutely disagree that domestic helping is an inferior job and in fact, a good home helper makes a substitute for a housewife. A professional home helper is even invaluable. On behalf of housewives, they can take care of the needs of families in daily lives and in other aspects such as diet and health, so that women can feel at ease in going out to work. Some may ask this question: Are foreign domestic helpers not helping with the housework now? I think there is a world of difference between local professional home helpers and foreign ones. Firstly, there will certainly be some kind of a gap existing between employers and foreign domestic helpers who come from a different culture and speak a different language. Secondly, many foreign domestic helpers are not professionally trained. Thirdly, there are many rigid requirements laid down for the employment of foreign domestic helpers. For instance, a fixed term of employment, free accommodation and flight tickets and so on. The overall cost required is not inexpensive. On the contrary, it is certainly easier for professionally trained local domestic helpers to adapt to the employers' families and gain the confidence of the employers. The professional training that the helpers have gone through will set employers' mind at rest because the

employers know that the needs of their family members will be properly taken care of. Besides, the working hours of local domestic helpers can be flexibly arranged to cope with the different needs of employers. The best thing about this scheme is that not only can it help to alleviate the burden of housework on women thus enabling them to work without having to worry about their families, it also provides women job-seekers with one more choice.

The Honourable LEE Cheuk-yan's amendment asserted that the primary reason for the labour force participation rate of women being lower than that of men is "the prevalent discrimination against women by employers". I do not agree with him. At present, some recruitment advertisements stated specifically the sex and even the age of prospective applicants. It is true that some employers may really be discriminating against women in specifying the sex of applicants in its recruitment. Yet, a lot of employers do believe that the nature of some jobs will be more suitable for persons of a particular sex and so they add in this specification in its advertisement, without any intention whatsoever to discriminate against anybody. Despite the fact that I do not think it is right in so doing and I think the Government should take steps to change this mentality of some employers, in fairness I do not think that the overall recruitment situation features "prevalent discrimination against women by employers" as suggested by Mr LEE. This seems to be putting the blame on all employers. My view is that in order to increase the labour force participation rate of women, we have to try our best to retain women who have joined the labour market to prevent wastage. The Government should provide sufficient support services to enable women to work without having to worry about their families. On the other hand, the Government should provide appropriate training for women who wish to rejoin the workforce and open up the labour market to provide more job opportunities. In this way, the employment difficulties faced by women can be addressed in a positive way and the pressure posed by labour shortage will also be relieved.

Madam Deputy, with these remarks, I support the original motion of the Honourable Mrs Selina CHOW.

MISS EMILY LAU (in Cantonese): Madam Deputy, during the debate on the question of employment of local workers in the Legislative Council last week, it has already been pointed out that "it is difficult for middle-aged women to find a job". On that occasion, Members urged the Government to help these women remove the obstacles. Today, we are again having a debate on the question of the employment difficulties faced by women.

Apparently, it has become increasingly difficult for local women, especially middle-aged women, to find a job. But very unfortunately, the Government has adopted an ostrich policy, and is unwilling to admit that there is such a problem. I was told by many women that they could not find a job during consultative meetings in my constituency or when I was receiving complaints. When the employers found out that they were over 30 years of age,

they did not want to employ them. Madam Deputy, I can quote many examples. However, as many Members have already done so, I would not want to waste time.

We feel very sad that employers should discriminate against middle-aged women. However, I believe not everyone knows that even the Government has been discriminating against them. Recently, I received a complaint from a 44 year-old woman who lives in Fanling. She has been a garment factory worker for more than 10 years. Starting from last year, she has been "living on the drip", so to speak. As she could not find any job, she went to the Labour Department, hoping that the Government would help her find a job or change over to other occupations. However, the staff member who interviewed her told her that with her looks, she could only find a job either in a mortuary or a funeral parlour. If not, she had to work as a street-sweeper or else she would not be able to find a job even until 1997. I believe the Honourable LEUNG Man-kin knew about this case because I have already sent him a letter relating this incident to him. I hope that was only an exceptional case and that most of our civil servants working in the Labour Department would not treat these helpless women in that manner.

I will be holding a residents consultative meeting in San Tin Wai Estate, Shatin on Friday evening. I am very pleased because Mr LEUNG has told me that staff members would be deployed to distribute forms to the residents at the meeting. More importantly, I hope that the Government's representatives can listen directly to what the residents have to say and let them tell the Government how serious the problem is. Madam Deputy, in fact, the problem can easily be known. The Government needs only refer to the job advertisements in the newspaper to find out that in many cases, employers wish to receive applications from applicants who are 35, 30 or below. That is particularly true in the case of recruitment for salespersons. Employers said they would not employ anyone over 40 years old. I really cannot understand why women over 40 years old cannot work as sales ladies. Has the Government tried to look into the problem and will it give these middle-aged women any assistance?

Apart from the difficulties encountered by middle-aged women in finding jobs, working women also receive different pay for the same job. Very often, women are given a lower wage than their male counterparts. How will the Government explain this situation? I hope the Government will admit that there really are sex discrimination as well as age discrimination in our society. The Government has often stressed that the labour market is a free market and it should not be intervened unnecessarily. I entirely agree. However, we should also understand that the market have to be open and fair as well, and that is why the Government is obliged to remove the obstacles in this respect. The Legislative Council is now scrutinizing the Sex Discrimination Bill. I would now urge the Government to draft an age discrimination bill without delay and table it for our scrutiny. Alternatively, the Government can simply support the Private Member's Bill tabled by the Honourable Ms Anna WU. We would be

very pleased to lend our joint support so that the legislation can be enacted as soon as possible.

The Government should also implement other policies besides the enactment of legislation to help middle-aged women find jobs. Hence, I hope Mr LEUNG Man-kin would tell us later how successful the Pilot Job Matching Programme has been since its implementation in April and how many people over 30 has successfully found jobs under the Programme. I would later on give Mr LEUNG a name list of job-seekers. I hope he can help them. Besides, I hope the Government can set a good example in encouraging Government departments and subvented institutions to employ more middle-aged women. Of course, what we advocate is that every employer, including the Government, would recruit staff based on personal ability and not place restrictions on age and sex. Otherwise, it would not only be unfair to women, it would also lead to a waste of our society's human resources.

I would therefore support the amendment moved by the Honourable LEE Cheuk-yan as I believe there are employers in Hong Kong who have discrimination against women. I do not agree that that would intensify the conflicts between the employers and the employees. Such view will not do any good to the employers, the employees or the society. As legislators, we have the responsibility to point out the problem. We do not want to stir up trouble, nor do we want to sow dissension between the employers and the employees. The Government and Members of this Council should calmly face the problem together. We should not act like ostriches. It is only by facing the problem that we will be able to find the answer.

With these remarks, I support the amendment moved by Mr LEE Cheuk-yan.

MR MARTIN LEE (in Cantonese): Mr President, in the motion debate on employment policy moved by Dr the Honourable HUANG Chen-ya last week, Council Members from the Democratic Party pointed out that labour importation policy interfered with Hong Kong's labour market, resulting in unemployment of local workers. Employment for women is closely related to Hong Kong labour market as a whole. The Honourable Mrs Selina CHOW proposes to educate, train and retrain women so that they can master market information with a view to solving the problems faced by them in seeking employment. Mrs Selina CHOW, however, has not touched on the crux of the problem, which is the position of women in the labour market.

Under the General Importation Scheme, labour in the service industry need to face competition, and have no bargaining power. Employers can be extremely particular in recruitment. In the face of age discrimination, sex discrimination and unreasonable employment terms, there is nothing women workers can do.

The Administration has been giving protection to Hong Kong workers through labour legislation. If, however, the Administration fails to find ways to tackle age and sex discrimination, the problem is still there no matter how much more resources are invested in retraining.

Indeed, other than by way of legislation, the Administration can adopt administrative measures as short-term solutions to deal with the problem of age and sex discrimination.

Last Wednesday, I proposed extending the present Pilot Job Matching Programme for job-seekers aged 30 or above to a General Job Matching Programme, which will be supervised by a Committee comprising representatives from labour, capital and the Labour Department. The Labour Department will serve as the executive arm.

The new Programme will work like this: First, the Administration will stop any further approval for labour importation. Then, employers who claimed that they cannot recruit local workers will need to submit details of the vacancies to the Committee. Job applicants will be required to register at the Labour Department which will pass a list of all job applicants to the employers. The Administration will consider granting imported labour quota to the employers only if they can provide adequate evidence to the Committee to the effect that, after interviews are conducted, they still fail to recruit local workers, and that no one has been turned away because of sex or age.

In the process, the "burden of proof" is on the employers. In this way, women workers' bargaining power may be enhanced.

It is my conviction that the above proposal is one of the positive measures that the Administration can adopt with immediate effect to tackle age and sex discrimination against women workers. The proposal also falls in line with the direction of the Pilot Scheme currently carried out by the Labour Department, and can cater to the interests of employers.

I therefore hope that the Administration can give due consideration to my proposal in which a balance is struck between the interests of labour and those of capital. Of course, in the long run, the basic means to increase employment rate for women is to terminate labour importation and to ensure more job opportunities for local women.

With these remarks, I support the amendment put forward by the Honourable LEE Cheuk-yan.

MS ANNA WU: Madam Deputy, the fact that there is a lower participation rate of women than that of men is by itself one of the many consequences of century-old barriers and discrimination practised against women. These barriers and discrimination are evidenced not just by a lower rate of participation, but more

fundamentally by a lower rate of pay. Discrimination against women in terms of promotion, or in terms of pay, cannot be removed by mere refinements in retraining. Women are saying, "Even if I am perfect for the job, I am being turned away at the door because I am 30 or above."

Last week, I referred to a number of age-specific advertisements in the Labour Department as follows: job for typing and clerical, persons below 28 required; job for inputting data, 20 to 30 required; part-time nursery teacher, 18 to 40 required; cashier, below 35; cleaner, between 35 and 45; cleaner, between 30 and 45.

We must recognize that it is not a job competency issue. It is women, energetic women, being turned away from the door. The answer does not lie in having retraining officers to tell the women to smile a little more or use more make-up to look younger. Until and unless we are willing to address the system to provide for a meritocratic society, we are not going to get any closer to helping women who are suffering from gender or age discrimination.

Women worldwide suffer from the same phenomenon. An Oxfam brochure on International Woman's Day some years ago described women as half of the world's population, comprising a third of the world's working force, doing two-thirds of the world's working hours, earning a tenth of the world's global income, and owning one hundredth of the world's property rights.

The captains of commerce and industries in Hong Kong, the various chambers of commerce and federations of industry have now begun to recognize these problems and have now accepted the need to discourage gender and age discrimination being practised. Equal opportunities to access jobs and to receive a fair deal is regarded by them as one part of having an open, fair and competitive society.

Gender stereotyping has affected women for centuries. Madam Deputy, we will not be removing these problems simply by retraining. I ask for a more systematic and regulatory approach to removing discrimination in the job place both for women and for others. I support Mr LEE's amendment. I do not support the original motion of Mrs Selina CHOW. Thank you.

DR TANG SIU-TONG (in Cantonese): Madam Deputy, whether women at 30 are "blossoming flowers" or "foul tea dregs", they face the same difficulty in finding employment. This is an unhealthy phenomenon in our labour market nowadays. Apart from being subjected to the consequences of labour importation and industrial restructuring, women are also being discriminated against by some employers both in terms of age and sex. That makes women, in particular married women, even more difficult to find jobs. The Employment Services of the Labour Department received 12 436 job applications lodged by women job-seekers aged between 30 and 39 and 9 469 by women aged 18 to 29 in the first half of 1994. The number of successful job-seeker in securing

employment through the Labour Department for the former age group is 2 081 while successful cases for the latter age group number 4 109, representing a difference of almost 100%. The figures testify the plight of women over 30 in the labour market.

Age discrimination is commonplace in job advertisements. Apart from commercial institutions, the job advertisements posted by the Employment Services of the Labour Department as well as those for clerks put up by those political bodies branding themselves as fighting for equality and democracy specify that the applicants have to be 30 or under. Even if the advertisements do not specify the age requirement, the elder job-seekers, albeit capable and experienced, are usually turned away after interviews. All these examples have been widely reported by labour organizations, women organizations and the media and I need not go into details.

There are commonly two factors leading to sex discrimination. Some employers think that the ability of women compares less favourably with that of men while the traditional mentality of "men should go out to work and women should stay at home to do the housework" is still being cherished by some people. Some employers worry that female workers would put much more weight on the family than on work and therefore are unwilling to employ female workers. Even if they employ women reluctantly, these employees are still subject to the "equal work, unequal pay" treatment. Some other employers fear that once married women get pregnant, the maternity benefits thus granted will add to operating costs. Some employers simply turn away married women so as not to involve themselves in any future act in breach of legislations governing the unreasonable dismissal of pregnant women or for the reason that they do not want to grant the necessary maternity benefits to female workers.

Some of our colleagues recently requested that the existing legislation in relation to maternity benefits be amended so that full-paid maternity leave can take the place of the original provision of two-third pay during maternity leave. As this proposal can enhance the benefits to be enjoyed by female workers, I do not object to it in principle. However, with the prevalence of foreign labour in the labour market, the existence of age and sex discrimination and underemployment, this amendment will probably provide one more pretext for some employers not to employ female workers, thereby presenting even more difficulties for married women to seek employment. Therefore, we must exercise extreme care to handle this problem. If we can lobby the industrial and commercial sectors to lend their support, the chance of success will be greatly enhanced. Last week, five major Chambers of Commerce issued guidelines on equal employment opportunities, suggesting employers not to allow age, sex or other forms of discrimination being applied when employing, dismissing or promoting staff. Although the guidelines are not legally binding, I welcome the positive attitude shown by the five major Chambers of Commerce.

I agree with the Honourable Mrs Selina CHOW that retraining can assist women to seek employment. The strengthening of training and the raising of the educational level of the general public are the important factors in the promotion of women employment. The Government has recently implemented a job matching scheme to assist women aged 30 or above to seek employment. I wish the scheme every success.

The factors leading to difficulties of women employment are not confined to the above factors. The lack of family support services for married women within the community is another objective factor that brings down the desire of women to participate in the labour market. This is particularly obvious among residents in the new towns who generally set up nuclear families. Women have to stay at home in order to take care of the young kids. For married women whose families are economically under-privileged, they hope that they may help to make ends meet by working on a part-time or semi part-time basis. Due to the lack of family support services, such as day-care nursery places, women are difficult to choose between working and taking care of the family. This leads to all sorts of social problems, such as low employment participation rate of women and child abuse. I shall move a motion on child abuse by the end of this month and hope that Members will take active participation in the discussion. On the whole, if the Social Welfare Department and other voluntary organizations can increase the provision of family support services at the district level, it can surely help ease family problems and encourage women to participate in the labour market and in community affairs.

Madam Deputy, today's motion seems to be a continuation of the debate on employment policy held last week. I do not entirely agree with the wording in the original motion where "labour shortage" is used. I believe that certain trades are having difficulties in recruiting staff, but overall speaking, under the present high unemployment rate, it is a fact that there are more job-seekers than work. It is therefore debatable whether "labour shortage" does exist.

It is undeniable that women employment is a major problem nowadays and I share the feeling when I am engaged in district work. The motion moved by Mrs Selina CHOW is appropriate but the Honourable LEE Cheuk-yan described her motion as "wrong impression of the situation and wrong expression of kindness". That remark may have underestimated the intelligence of Mrs CHOW. In the martial arts fiction *The Book of the Vulture-shooting Hero*, kungfu master, Elder HONG, taught the hero a set of kungfu strokes called "the 18 Dragon-vanquishing Strokes". Mrs CHOW has, in her motion, played 17 strokes out of the 18, leaving the last stroke "Flying Dragon In the Sky" unmanifested, thinking that only 17 strokes would be sufficient to gain a victory. Mr LEE Cheuk-yan, however, in the contest between the Hong Kong Confederation of Trade Unions and the Liberal Party, was given full play to all 18 strokes in order to guarantee an overwhelming victory.

Although the wordings of the original motion and the amendment are different, the two are consistent with my standpoints in both spirit and direction. In view of this, I support both the original motion and the amendment.

Madam Deputy, these are my remarks.

MR MAN SAI-CHEONG (in Cantonese): Madam Deputy, in the fifties and sixties when the manufacturing industry was booming, the female workers of Hong Kong contributed a lot to our economic development and provided workforce for the manufacturing industry. However, in the eighties when our economy underwent restructuring and industries were relocated to South China, it was the same bunch of female workers that bore the brunt of it. Those women who worked in the manufacturing industry are now in their middle age. They have difficulty in finding employment. In the face of difficulty in changing jobs, especially when Hong Kong is now predominantly service-oriented, there is no adequate retraining for them to be able to adapt to the new employment environment. What is more, they face age discrimination. Most employers of the service sector prefer employing younger females, to the disadvantage of females who are above 30 years of age. It is no wonder that we have the saying "a woman finds it difficult to obtain a job on reaching 30".

In the past, the Government had not attached any importance to the problems faced by women. Apart from the fact that it refused to set up an interdepartmental committee for women, it has been very passive in dealing with issues such as full-pay maternity leave, equal opportunities for both sexes, equal pay for equal work for both sexes and so on. The consistent attitude that the Government had been taking regarding problems faced by women has a direct bearing on whether or not the problem of female employment can be solved. I believe that through legislation, education and other means, age and sex discrimination can be reduced. However, the Government has all along been passive in taking any action. It is my belief that technical difficulties may arise for any new measures or means adopted. However, whether they can be overcome depends on the Government's determination.

The female employment problem at present is not transitory. It will still be a problem in the foreseeable future. It will remain unsolved if the Government is still undetermined in making a comprehensive review and formulate positive policies including the discontinuation of the importation of labour and the enactment of laws to prohibit age discrimination and so on. It should reconsider the setting up of an interdepartmental working group to work out solutions for female employment. Topics to be studied by the working group should include how a balance can be struck between the family and work for women; how women can be helped in switching jobs; and how pregnant female workers can be protected. I believe that it is only by so doing can

women be fully helped in solving their employment problems. In the long run, there is a strong need to set up a committee for women.

These are my remarks.

MR HENRY TANG (in Cantonese): Madam Deputy, before debating on how to provide retraining to women in Hong Kong so that they can join the workforce, I would like to tell you my recent experience in a recruitment exercise. About half a year ago, I noticed that the volume of research work in my office was getting greater and greater. Even though my assistant ran around in circles, they could hardly cope with the heavy workload. I therefore decided to hire an extra part-time research worker to classify clippings from about ten newspapers. If this post is not taken up by a person who has a strong interest in news or a person with great patience, I daresay that it would surely be an offensive job. In fact, I have been let down many a time by the performance of the staff. For instance, they gave me articles without captions or the last paragraph of which was missing; articles that were wrongly classified; and blurred photocopies of articles which were beyond recognition. However, I have recruited a very competent staff member recently and my problem is solved. The process was very simple. I just made a phone call to an organization which was responsible for providing retraining courses, inquiring if they had any suitable candidate for the post. Then the problem was solved.

The lady currently in my employment is more devoted to her work and shows more respect for it than all other part-time employees of mine in the past. Yet in the general employment market nowadays, the lady may probably be classified as an "over-aged" job seeker. Or, she may be forced to abandon the working community which is short of workers because she has to take care of her family and cannot fully devote herself to her work. Take this employee of mine as an example, she finds herself extremely fortunate "to be able to find a job". Many married women aged over 30 with children, like my employee, often sigh over the difficulties they encounter when looking for a job. According to statistics for the first two quarters last year compiled by the Labour Department, among approximately 32 000 female job seekers of which 60% were aged between 30 and 49, the percentage of those who succeeded in finding a job through the Labour Department way as low as 10%. I have talked about this subject many times and today I am not going to discuss again the attitude of the staff of the labour Department, which is "you will be paid \$12,000 if you work hard and you will still be paid \$12,000 if you stay idle".

In fact, the placement policy of the Government has neither opened up job opportunities for women nor actively followed up the placement situation of the retrainees. In regard to the Employees Retraining Board (ERB), nearly 56 000 persons, of which 80% are women, have enrolled in the retraining courses since its inception in November 1992, which was more than two years ago. However, in the assessment on effectiveness prepared by the ERB last year, such a crucial

figure as "the number of retrained female workers rejoined the workforce" was not provided. We should be aware that the purpose of the retraining scheme is not merely to provide the workers with a course to acquire new skills but to provide the retrained workers with opportunities to look for new jobs. Of course, I do not intend to belittle the achievements of the ERB and I do understand the difficulties arising from the running of the retraining scheme. It is already considered as satisfactory to have 50 000 persons enrolled in the courses. As compared with the original target of 15 000 retraining places with the grant of \$300 million made by the Governor, a big step forward has already been taken. Yet we should admit that the increasing number of enrolment does not mean that the scheme is a success. In other words, there is still much room for improvement.

Firstly, it appears that the retraining scheme is being abused. The result of a recent survey indicates that almost half of the interviewees show no sign of seeking jobs. A review should be conducted as soon as possible to prevent the ERB from turning into an entertainment centre where idlers can make extra income from the retraining courses and can kill their time. Secondly, the ERB should monitor more closely the employment situation of the retrained workers and find out why they are not offered employment or why they do not look for jobs, so as to improve its operation mechanism and prescribe the right remedy for the case. Thirdly, employers should be more vigorously encouraged to participate in offering "on-the-job retraining" to the retrainees so that employers in need of employees and the employees looking for jobs in new fields can be better "popular" courses should be shortened to accommodate the needs of the market.

As the economy of Hong Kong is highly developed, there should be more women participation in economic activities. Undoubtedly, when compared with their counterparts in Japan and South Korea, young women in Hong Kong are in the lead with a labour force participation rate of 80%, a figure far exceeding those of Japan (63%) and South Korea (54%). Nevertheless, when women in Hong Kong reach their forties, their labour force participation rate plummets to 32%, a figure that can hardly compare with those of Japan (61 %) and South Korea (56%). These figures are sufficient to reflect how difficult it is for women in Hong Kong to rejoin the workforce after having children. In this regard, I hope that the Government will review its current placement policy by taking the initiative to help women remain the workforce and making it possible for them to rejoin the workforce through retraining schemes, so as to ease the pressure brought about by the shortage of labour.

With these remarks, I support the motion of Mrs Selina CHOW.

REV FUNG CHI-WOOD (in Cantonese): Madam Deputy, it is an indisputable fact that the employment rate of women is low in Hong Kong. Another phenomenon that comes to our notice is that the employment rate of women declines as women grow older. Take the year 1994 for example. The labour

force participation rate of women between 20 and 24 is 77.7%; for those between 25 and 29 is 81.7% which is the highest rate; 63.5% for those between 30 and 34; 52.1% for those between 35 and 39; 53.1% for those between 40 and 44 and 50.5%, which is the lowest rate, for those between 45 and 49. These figures presented a *fait accompli* and that is, the golden age of female participation in the labour market is between 20 and 30. Women are forced to leave the labour market on a temporary basis due to reasons such as marriage, pregnancy, the need to bring up their children and so on. If we take a look at the labour force participation rate of women between 30 and 40, we will find that 40% to 50% of women in this age group are not working. They are housewives by social status. But they are classified by the Government as unemployed in terms of their economic status and are considered as a group of people who do not wish to play a role in the labour market. Obviously, the fallacy that these women are unwilling to work is untenable. Complaints from many women over 30 years of age about not being able to find a job have been lodged with us and labour organizations. In addition, with the manufacturing industry which used to take on a substantial number of women workers drastically shrinking and relocating its production processes to China since mid-80's an enormous pool of women workers in the manufacturing industry has been facing various difficulties such as unemployment, underemployment or in changing job. Hong Kong is desperately in need of more job opportunities to cater for job-seeking housewives and those job-seeking or job-changing women workers displaced by the manufacturing industry.

Some people think that in the case of housewives or displaced women workers, providing them with job training and improving their standard of education or skills will enhance their bargaining power in choosing jobs. However, this is not the only reason that brings about the low employment rate of women. The root of the problem lies in the prevalent age and sex discrimination in the labour market in Hong Kong, which impaired the employment opportunities of women. For those who interpreted the underemployment of women as simply the result of supply and demand being in discord, unless they are ignorant of women's labour market situation, otherwise they must be deliberately covering up and evading the serious problem posed by age and sex discrimination. There are persons who are trying to raise high the banner of solidarity among workers and employers', but underneath they are distorting facts and dodging the discrimination problems.

The Honourable Mrs Selina CHOW's motion suggested that the low labour force participation rate of women is attributed to the insufficient support services to women in Hong Kong. Evidently this is not a reflection of the reality. The gravity of discrimination and employment difficulties that women face in Hong Kong are beyond tolerance. It is clearly pointed out by a survey report released by the Employees Retraining Board in mid-1994 that an age limit between 28 and 30 is imposed by some sectors of the service industry. From a survey of recruitment advertisements conducted by labour organizations in 1993, 50% of the retail industry, over 20% of the catering industry and over 10% of hotels have set an age limit for their employees at below 30. We can

also get a general picture of instances of discrimination in other industries from the media coverage. Even those who have undergone retraining courses run by the Employees Retraining Board have indicated that they had been discriminated against in seeking jobs on account of age. These surveys and cases show precisely that even if women possess the required experiences and skills and even if they know that there are employers recruiting employees, they are still prevented from joining the labour market because of age discrimination. Age discrimination and sex discrimination are like twins. At present, the retail industry and some sectors of the service industry are among those industries in which age discrimination is comparatively serious. Given that the majority of employees in these industries are women, it is envisaged that the ultimate victims of age discrimination will mostly be women. I call on the Government to address discrimination seriously in the labour market by adopting more stringent measures to curb age and sex discrimination. This is the basic solution to the problem. Moreover, the importation of labour is another crucial factor which jeopardized the employment of women. This issue was debated at length in this Council last week. In order to root out the employment problem faced by women, we must direct our effort to the core of the problem and the underlying factor which deterred women from seeking employment. If we shift our focus away from the core of the problem, we will not be able to attain the goal of protecting the employment rights of women.

Madam Deputy, I urge Members of this Council to identify the *raison d'etre* of the problem, I believe that women themselves know best about the crux of the problem. Today the Joint Committee on Concern for Women Employment Rights which comprises 11 civic bodies issued a statement, holding that the employment difficulties that women faced cannot be overcome simply by the Government's Job Matching Scheme and the Employees Retraining Scheme. The Government must introduce legislation to prohibit age discrimination in the first place and terminate the importation of labour. This is the only way through which the employment rights of women can be safeguarded genuinely.

Madam Deputy, with these remarks, I support the amendment of the Honourable LEE Cheuk-yan and oppose the original motion of Mrs Selina CHOW.

MR ALBERT CHAN (in Cantonese): Madam Deputy, just now the Honourable Henry TANG mentioned about the Employees Retraining Scheme and quoted an example of success from his experience. I also have my own experience that I wish to share with Members. About a year ago, my Legislative Council Member Office also wished to employ, through the Labour Department and the organizations concerned, a woman who has received retraining. However, having waited for quite some time after the contact, we had not received any reply. At the completion of such relevant courses, I contacted them again. But strangely enough, nobody responded to the recruitment which was merely for an assistant clerk. Later on I chanced upon some old colleagues who were

carrying out a retraining programme in other districts. Luckily, with their referral I eventually had someone coming for the job interview, and we then decided to employ that lady. Therefore, it can be seen from this that the Employees Retraining Scheme seems to have some serious problems in job-matching. It seems difficult to imagine that nobody would respond to the recruitment of a post of an assistant clerk!

Madam Deputy, just then DR the Honourable TANG Siu-tong has used an insulting remark in the introduction of his speech to describe women aged over 30. I find it regretful that he has used such an insulting remark, and I hereby strongly reprimand him for so doing. It is true that he has spoken a lot about the difficulties faced by female job-seekers and he has also made a number of recommendations, but from the remarks he has made, it can be clearly seen that he has the state of mind and attitude of discrimination against women.

Madam Deputy, as to the problem of employment for women, some Members of this Council and some organizations have on the one hand repeatedly claimed that they will fight for women's rights and employment opportunities when they speak on public occasions or in this Council, but on the other hand, when they are in different capacities or playing different roles, especially when they are upholding the stand of employers, they will discriminate against women and stifle their employment opportunities. Using a Chinese Communist Party jargon, this is "flaunting the red flag to oppose the red flag", since on the one hand they say they fight for women's rights, but on the other hand when they are not in the capacity of Legislative Council Members, they oppress those women whom they claim they will fight for their employment opportunities. How ironical this is!

Today we have a statement jointly made by 11 organizations. I think the employment problems of women presented by these 11 organizations have fully reflected the present situation. I am going to read out this statement in order that the views expressed by these organizations on women's employment can be put on the record of this Council. These 11 organizations which together formed the Joint Committee for the Concern of Women's Employment Rights include: Industrial Relations Institute, Hong Kong Federation of Women Centres, Eastern District New Women Federation, Clothing Industry Workers' General Union, Hong Kong Confederation of Trade Unions (Women's Affairs Committee), Hong Kong Women Workers' Association, Association for the Advancement of Feminism, Hong Kong Women Christian Council, Personal Care Workers and Home Helpers' Association, Hong Kong Social Workers' General Union and Concern for Women's Rights Group of the Mong Kok Kai-fong Association Limited — Chan Hing Social Service Centre. The statement reads as follows:

"The Joint Committee on Concern for Women Employment Rights (comprising 11 women and industrial workers' organizations) expresses its regret concerning the motion moved by the Honourable Mrs Selina CHOW of the Liberal Party. The Liberal Party has repeatedly stressed

that there is still labour shortage in Hong Kong, and that women's employment problem arises mainly from the lack of support service. The Liberal Party has been silent on the main causes leading to women's employment problem, that is, age discrimination and labour importation, and does not support the prohibition of age discrimination through legislation. The motion moved by Mrs Selina CHOW has fully shown the consistent stand of the Liberal Party to "care only about economic growth and not the people's livelihood". It has also thoroughly exposed the true picture of collusion between the Government and businessmen to protect the interests of these wicked businessmen and how they join hands to deprive women of equal opportunity of employment.

"The Joint Committee represents the countless number of women in reiterating our stand, that we hold the view that the principal causes for women to have difficulties in finding employment are that many employers discriminate against women in their recruitment for workers, using sex, age and family responsibilities as excuses to deprive women of their employment opportunities; in addition, the massive importation of labour has forced many women aged 30 or above to take up jobs that are low-paid, that offer no protection and the working conditions of which are harsh. Also, women are facing the situation that their wages decrease inversely with their age, so that the value of the female in the labour market further diminishes.

"We are of the view that the difficulties of women in finding employment cannot be resolved simply by the job-matching and retraining schemes implemented by the Government. The Government should in the first place enact laws to prohibit age discrimination and to stop the importation of labour before the employment rights of women can be truly safeguarded.

"We call on the Liberal Party again to improve the employment situation of women with sincerity, and we urge Mrs Selina CHOW to amend her motion as follows: That in view of the lower employment opportunities for women than that of men in Hong Kong which is mainly attributed to the employers' general attitude of discrimination against women in their recruitment, as well as insufficient support service to women in Hong Kong, this Council urges the Government to take legislative measures that eliminate sex, age and family responsibilities discrimination to enable women to enjoy equal opportunities of employment."

Madam Deputy, this statement fully presents the views of women and the labour sector on the employment situation. I cannot agree with it more. Therefore, I oppose the original motion moved by Mrs Selina CHOW and support the amendment motion moved by the Honourable Mr LEE Cheuk-yan.

MR LEE WING-TAT (in Cantonese): Madam Deputy, I have a few points to raise in regard to today's debate.

First, the motion moved by the Honourable Mrs Selina CHOW today suggests that the lower labour force participation rate of women than that of men in Hong Kong is mainly attributed to insufficient support service to women. That is Mrs Selina CHOW's argument today. In short, there are two causes for women unemployment: (1) the household responsibilities that women have to shoulder is so heavy that it is very difficult for them to find a job in the absence of sufficient child care or social services; (2) the retraining scheme is not working well and once improvements have been made, it will enable women to find jobs.

Personally, I disagree with her analysis. In regard to the existing retraining scheme, many women, in fact, still cannot find a job after retraining. A lot of examples illustrate that many women resort to the retraining scheme as a means to stay alive because the allowance released to them for taking part in the retraining scheme can be used to supplement living expenses. Quite often, completion of a retraining programme does not ensure a job. In Hong Kong, there is no rules requiring the Government or employers to give priority to those who have been retrained for employment. However, many colleagues of mine in this Council and members of my Party have received a considerable number of complaints that many female workers who had completed the hotel retraining programme were told by the hotel management in job interviews that their English should at least reach Form Three standard, although their job was simply making the bed, that is, housekeeping. We are surprised that the hotel management should make such a requirement. Thus, no matter how well the retraining schemes are conducted, there is still no guarantee that female workers can find a job. I therefore have reservation about Mrs Selina CHOW's argument.

Secondly, even if more child care and family support services are provided, can it be guaranteed that female workers will be able to find a job? Actually this is not the case. At present, some single female workers cannot find a job, nor can many married ones with their children being taken care of by their grandparents. Hence, insufficient support service may not be a cause for unemployment.

Madam Deputy, my argument is very simple. The crux of the problem of women unemployment, in fact, lies in the labour importation scheme. This scheme brings about inequality between employers and employees in the labour market. When there is an abundant supply of labour, employers do not have to employ local female workers; if employers fail to recruit any local female workers, they can simply place an advertisement on the newspapers for a few days and then apply to the Labour Department for a quota to import workers. Normally, the Labour Department will not investigate a case such as this. Are there any other ways which are easier than this? I therefore think that to put the blame on insufficient training programme or the lack of child care and family

support services in Hong Kong is to divert our attention from the crux of the problem.

I still hold that the labour importation scheme will lead to unfair treatment for local workers of both sexes in the labour market. They suffer when choosing jobs. Regarding the solution to this problem, the Liberal Party and our Party hold very different views. I think that the most thorough way to solve the problem is to terminate the labour importation policy so that local workers will have a chance to select jobs of their own choice. I find that when we discuss this problem, we have mixed up the essence of the problem with its technical aspects. Many honourable Members of the Liberal Party are talking about technical matters. Those who are in favour of the motion moved by Mrs Selina CHOW are also talking about technical matters. For example, they suggest ways to enrich the working knowledge of female workers, to enhance the training programme and to lighten their family burden, so as to make it possible for them to find a job and so on. In fact, these are but illusions. If the labour importation scheme is not abandoned, no matter how many skills they acquired, they still cannot find a job; even if they sent their children to child care centres, they still cannot find a job either. Hence, I totally disagree with such an analysis.

Here is another point I have to raise. If we really want to work for the well-being of local workers, including female workers, we should not shift the focus away from the crux of the problem. Some honourable colleagues mentioned age and sex discrimination. I agree that female workers in Hong Kong are subject to a considerable degree of age and sex discrimination. However, at the same time I believe that if the labour importation scheme is not terminated, women may not be able to find a job even if legislation against sex or age discrimination is enacted. Employers can refuse to employ female workers as before and keep on recruiting foreign workers through the labour importation scheme.

Madam Deputy, I feel much regret today. Last week we debated the motion on the labour importation scheme and today Mrs Selina CHOW moves a motion on this issue again. It seems that she wants to do something for the local female workers. I feel that what she is doing is hypocritical, something like "a cat weeping for a rat". She should be aware that support for the labour importation scheme will result in massive local unemployment. What is her intention for doing so? Does she mean to ask local workers to drink poison first and then give them plain water to quench their thirst afterwards? Is this the right way to do things? I just wonder why she does not come up outright to support the labour importation scheme and admit that this scheme will affect the employment opportunities of local workers. Her stance is clear and obvious enough. So, Madam Deputy, why should we be so affected as to say that we do everything for the sake of local female workers? As a matter of fact, the labour importation scheme has already deprived them of their livelihood. If we do not put an end to the scheme but just occupy ourselves with such minor technical aspects of the issue, it is certain that the problem cannot be solved.

Madam Deputy, I oppose Mrs Selina CHOW's original motion and support the Honourable LEE Cheuk-yan's amendment.

MR JAMES TIEN (in Cantonese): Madam Deputy, the topic today has in fact been discussed a number of times. Indeed, Hong Kong's success that has been going on for years is mainly attributed to our free economy. Employers and employees are in fact in the same boat instead of in different boats steering for different destinations.

We often say that we hope to have more foreign investors investing in Hong Kong. If they invest in Hong Kong, they will of course hire local employees. Local employers who have set up companies here will also hire their staff in Hong Kong. But over the past 10 years, the inflation rate in Hong Kong has stayed at 10% for a long time and salary increase each year is therefore expected to be not less than 10%. This year, the Hong Kong General Chamber of Commerce has recommended that salary be increased by 9%. However, the Hong Kong Confederation of Trade Unions, to which the Honourable LEE Cheuk-yan belongs, has counter-proposed 13%. Undoubtedly, the competitiveness of our manufacturing sector in the past 10 years has been declining. Similarly, the services sector is also facing the same problem. Foreign visitors will find that they have to spend much more money in order to get the same services as they did 10 years ago.

Of course we may say that our persisting 3% unemployment rate during the past 10 years, which can be regarded as very low against an international background, is actually quite high considering Hong Kong's situation. Some colleagues have said that workers in foreign countries are protected by social security, which is not enjoyed by workers in Hong Kong, who will be in a sorry plight when they become unemployed. I agree. But the provision of social security and the 3% unemployment rate constitute an altogether different issue from the performance of our economy. In my opinion, such a low unemployment rate during the past 10 years is mainly due to an extraordinary economic growth. Are we to turn critic and to advance a counter-argument that our economy has been booming for too long? Nevertheless, such a viewpoint seems applicable to the workers as well as to the employers. Are we becoming less competitive? I think so. During the past five years from 1990 to 1995, the number of workers in the manufacturing sector has decreased from one million to 500 000. We can see what sort of workers those people who quit the sector were. Generally speaking, they may be manufacturing workers who have higher mobility so that they changed their jobs over the past five years. Our industrial sector, which has become less and less competitive, will continue to shrink or to have its factories relocated to mainland China. The remaining 500 000 manufacturing workers may be described as less mobile and will encounter greater difficulty in changing jobs. In view of this, how are we going to give protection to these half a million people so as to keep them in the trade for a longer period of time? Madam Deputy, we are arguing whether foreign workers have displaced local workers. It is true in some cases, but it is not the

general truth. Presently, there are 20 000 foreign workers working in Hong Kong among our 3 million workforce which is subject to an unemployment rate of 2.8%. In other words, 78 000 people are jobless. Will it be the case that employers in Hong Kong will certainly hire those unemployed people if the 20 000 foreign workers are gone? Employers have a choice too. They may refuse to hire anyone. They may say that they do not want to run their business.

Regarding discrimination against age and sex, relevant legislation was enacted long time ago in the United States. I think such legislation has become a dead letter. Discrimination in the United States mostly takes the form of racial discrimination which is mainly directed against negroes. Age and sex discrimination comes second and relevant legislation on this problem is a dead letter too. In recruiting its staff, a company will only hire those who are suitable. The Honourable CHEUNG Man-kwong has just mentioned that I stated at a meeting of the Manpower Panel that my company would hire young employees only. So I must set the record straight. It is my younger brother's company, not mine. I had discussed this with him and he told me that the customers of his chained stores, which are selling jeans and T-shirts, are teenagers and youngsters in their early twenties. Just imagine the customers' reaction if they are greeted by sales people who are over 40 years of age. So the age of the employees is being considered from a commercial point of view. In fact, the Democratic Party has also "committed the same mistake". A staff recruitment advertisement published by their office also specified that the applicants should be below 30 years of age. They, of course, said that this would not happen again. But what has happened has laid bare the fact that the employers and employees are holding different points of view.

A large part of Mr Albert CHAN's speech is based on a statement by the Committee Concerning Women's Employment Rights. The statement mentions that some unscrupulous businessmen have colluded with some government officials in order to have their own interests protected. I would like to ask Mr CHAN one question. There are many employers running a small shop in Tsuen Wan who hire two or three employees. Are they all unscrupulous businessmen? Do they all collude with officials? They have to struggle to survive as they will be driven out of business if their operation proves unprofitable. If they are unable to make profit they will not hire any of these workers even though we have passed the legislation.

Madam Deputy, regarding the question of education, I think one of the most serious problems during the past two decades is that jobholders need not broaden their knowledge or improve their efficiency possibly due to extraordinary economic growth experienced in Hong Kong. During the past 10 years, workers were used to "firing their bosses" and are seldom being fired by their bosses. Under such circumstances, competitiveness began to weaken. So we think that retraining is very important. Mr LEE Wing-tat has mentioned one point which I consider correct. He says that the Liberal Party and the Democratic Party are looking at this question from two different angles. The Liberal Party thinks that we should strengthen our economy so as to achieve full

employment. But the Democratic Party thinks that economic growth is not essential as the problem will be solved by asking the employers to fulfil all the employees' wishes. But the fact is that the employers may choose to close down their business if our economy is not performing well. In this case, they will not hire any local workers even if there is no importation of foreign labour. If a 3% unemployment rate is unsatisfactory, then how about the unemployment rate in the United States which has never fallen below 5% in its history?

Madam Deputy, I hope in future our labour relations can be established on practical and realistic basies so that workers presently out of jobs can find employment instead of perpetually directing their ire against the employers and the bosses.

Madam Deputy, with these remarks, I support Mrs Selina CHOW's motion.

THE PRESIDENT resumed the Chair.

DR HUANG CHEN-YA (in Cantonese): Mr President, although there are a number of very able women in this Chamber who hold high positions and earn attractive salaries, that certainly does not mean that there is sex equality in terms of wages and employment opportunities in Hong Kong. If we would only open our eyes and look honestly at the statistics and the real cases, we would not say, "the employment opportunities of women can be protected if sufficient training is provided in Hong Kong".

As the Hong Kong Government has all along not provided classification of men and women in the statistics that it has compiled, we can only describe the present situation from the limited data available. According to a survey in March 1994, on the whole, the average salary of a woman in March 1994 was \$8,308 per month, 10.3% lower than that of a man which was \$9,263. There are two main reasons for the lower salary. First, in some trades, different salaries were paid for work of the same position. Second, higher positions with attractive salaries were mainly taken up by men. According to a survey in 1991, men dominated the higher positions such as managers and executives. Only 24.2% of these posts were taken up by women; only 32.3% of the professionals were women and only 42.1% of the assistant professionals were women. Technicians were, again, mainly men.

The economy of Hong Kong has transformed from the manufacturing industry to one of servicing. In the process, retail business has become a major sector to absorb woman workers. However, sex discrimination is also very serious in this sector. In March 1994, woman sales supervisors, sales assistants and clerks were paid less than their male counterparts. On the whole, a woman working in this sector earned \$7,486 per month on average, about 10% lower

than that earned by a man which was \$8,302. How can a problem basically caused by sex discrimination be solved by training?

Besides, according to a survey recently published by the Chinese University of Hong Kong, a majority of the interviewees has experienced sex discrimination in respect of promotion and salaries. The report also found that men considered their sex an advantage in seeking jobs whereas women considered theirs an obstacle.

There certainly are real cases which tell us that employers do have different criteria for men and women in their recruitment. For example, they would often require woman employees to be young, or even pretty, or they would decide that certain positions are suitable for men only. These requirements, which are sexually discriminatory, have cast women away. There is sex discrimination in the labour market. We must enact legislation which prohibits age and sex discrimination in order to ensure that women would not be discriminated in respect of employment, promotion and salaries.

At present, the difficulties that women faced in finding jobs are not only caused by sex discrimination, but also by the crucial factor of the importation of foreign labour. The vacancies filled by imported workers (for example, in the retail, food and beverage trades) are the kind of jobs which many women are now doing. Hence, when employers employ cheap foreign labour, they are reducing the job opportunities for local women and impeding improvements in their remuneration. It is therefore only by terminating the importation of foreign labour immediately that there would be more job opportunities for local women. However the Honourable Mrs Selina CHOW supports the importation of foreign labour. Likewise, the Honourable James TIEN who spoke just then, as well as the Honourable NGAI Shiu-kit and the Honourable Miss Emily LAU who spoke last week, have used the free market mechanism to support the importation of foreign labour. I wish to remind them that the importation of foreign labour is in itself an intervention of the free market mechanism, distorting the demand and supply of labour in the free market. Hence, it is contradictory to the principle of free market. If we wish to revert to the free market, we should object to the importation of foreign labour.

As a matter of fact, the training and retraining that we propose are poles apart from those proposed by Mrs Selina CHOW. On the last occasion when I initiated the motion debate, I have already pointed out that the purpose of training and enhancing the skills of our workers is to help them to gain higher positions, make greater contributions and gain better remuneration, unlike Mrs Selina CHOW's proposal which would only help workers keep their jobs and let them continue doing their low-paid work which require minimal skills. In fact, this short-sighted approach to training would only enable employers to train up a large pool of low-paid workers who are readily replaceable. That would only make woman workers more vulnerable in employment and exacerbate sex discrimination which exists in the labour market.

Mrs Selina CHOW has, on many occasions, proposed to train local women to become domestic helpers. That proposal *per se* is indeed naked discrimination and it obviously presumes that local women are unwilling to seek progress and unable to improve. That Mrs CHOW has proposed training to avoid the question of sex discrimination is really a sham. The kind of training she has proposed would make women stay in jobs which have no prospects, jobs which require minimal skills and are low-paid. When these women become old, they would easily be replaced by another group of women.

It is only by enacting legislation which prohibits age and sex discrimination that vocational training provided by the community and on-the-job training provided by the employers can help women develop their potentials and obtain skills which can hardly be replaced. It is only then that women can have the opportunity to ascend to a higher level in their career and obtain a better salary.

I support the Honourable LEE Cheuk-yan's amendment for the above reasons.

PRESIDENT: Mrs Selina CHOW, you have five minutes to speak on the amendment.

MRS SELINA CHOW (in Cantonese): Mr President, I have already made clear my purpose of moving the original motion. It is a pity that the Honourable LEE Cheuk-yan seeks to shift the focus of our discussion today to his social campaign by moving his amendment. Mr LEE is in fact attempting to sweep under the carpet the real reasons for the lower labour force participation rate of women and then indiscriminately stick a specially-designed label onto the employers. I wonder on what ground the assertion of "prevalent discrimination against women by employers" as made in the amendment is based. I would describe the assertion as "sweeping all at one stroke", that is, attempting to label all employers as unscrupulous businessmen and to polarize employers in general and women job-seekers. The prosperity of Hong Kong is, to a large extent, dependent upon the harmonious relationship, mutual understanding and co-operation between the employers and the employees. To stir up conflicts and antagonism between the two may help pave the road for those who start the fire at the expense of the prosperity of our pragmatic and peaceful Hong Kong society.

Mr President, Mr LEE said that I was "making an incorrect diagnosis and prescribing the wrong medicine" by moving the original motion. It is in fact Mr LEE who has been "making an incorrect diagnosis and prescribing the wrong medicine". I have explained clearly the real source of the problem in my original motion. The major factors are insufficient support service to women, economic restructuring and the lack of training and referral service for women. I am not attempting to say that Hong Kong is discrimination-free, but I must

make it clear that the discrimination is perpetrated by some unscrupulous employers, and not employers in general.

I agree totally with the Honourable Miss Emily LAU that we should discuss the problem in a sensible manner, although our viewpoints may not be the same. However, the Honourable Albert CHAN just read out the entire Statement of Standpoint lodged by the Joint Committee on Concern for Women Employment Right: "... exposed the true picture of collusion between the Government and businessmen to protect the interests of these wicked businessmen and how they join hands to deprive women of equal opportunity of employment." I cannot agree that such words in a speech are conducive to the conduct of sensible debates. The Honourable Albert CHAN's speech is interesting in that he has used a famous Communist slogan: "flaunting the red flag to oppose the red flag". It has, to a certain extent, exposed the mentality of Mr CHAN or his colleagues in the Democratic Party. The Statement of Standpoint has shown clearly that they are really trying to smear the images of those government officials, employers and social figures who do not share their opinions. That reminds me of the Red Guards in the Cultural Revolution who rebuked and insulted their enemies and the way they marched in the streets to expose and criticize the enemies. I believe that the Democratic Party should really listen to Miss Emily LAU's advice.

The Honourable LEE Wing-tat has mentioned that we are as hypocritics like "a cat weeping for a rat". I do not believe that we need to waste time to be hypocritics. I would also like to respond to Mr Albert CHAN's speech in which he stated that he agreed to the Joint Committee's criticism that the Liberal Party "cares only about economic growth and not the people's livelihood". I cannot find a single word in my original motion that testifies the allegation. The motive of my original motion is aiming at improving the opportunities of women employment. The Honourable CHEUNG Man-kwong and the Honourable Michael HO obviously have not really gone over the details of my proposed "re-training scheme for domestic helpers". If they had, they would have understood that my plan also addressed the issues of women employment and part-time jobs for women. Mr HO feels puzzled as to why we have come up with such a "strange" proposal. In fact, the Liberal Party has come up with this plan after extensive consultation and in-depth consideration. We have also talked with those women who want to pursue this career and conversed with potential women employers. I propose that the gentlemen who had criticized my proposal should talk with those women and identify their genuine needs.

I hope that we can all take a square look at the problem of women employment in Hong Kong and support my original motion and oppose Mr LEE Cheuk-yan's amendment.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr President, the original motion asserts that the labour force participation rate of women has been low in Hong Kong and attributes this mainly to an insufficiency

of support services for women. This is not entirely correct. However, the Government agrees with the original motion's spirit and direction, which coincide with its fundamental policy direction in this respect.

May I first of all reassure Members of our employment policy — to provide a well-trained and well-motivated workforce to meet the demands of the dynamic and highly-competitive economy of Hong Kong. We have always been seeking to enhance the employment opportunities of all our local workers, men and women.

Labour force participation rate and employment situation

The overall labour force participation rate in Hong Kong is 62.2% at present. For the past 10 years, it has remained at a steady rate of 62-65%. The rate of women stands at 47.6% *vis-a-vis* 76.6% for that of men. Our overall labour force participation rate is similar to those of developed countries such as the United States and Japan. As for the phenomenon that the labour force participation rate of women falls below that of men, this is not peculiar to Hong Kong. The same occurs in almost all other countries, irrespective of their levels of social and economic development. We are generally comparable to our neighbouring dynamic economies such as Japan, Singapore, Korea, Taiwan and Thailand.

Over the past decade, the structural transformation of the Hong Kong economy towards more skill-intensive and service-related activities has generated a growing demand for workers with higher educational qualifications and better training. In response to this growing trend, the younger population in the age range of 15-24 prefer to stay longer years in schooling so as to receive higher education before entering the labour force. Moreover, arising from a growing level of affluence, more workers have opted a retire at an earlier age than before. This phenomenon has become a very significant factor influencing Hong Kong's labour force participation rate, which means that social and economic factors have had great impact on our labour force participations rate.

Let us not forget that we all play a number of different roles simultaneously. In a predominantly Chinese society like Hong Kong, it is not surprising that, for very good reasons, a large number of women choose to look after the family full-time. As long as they choose to do so of the own volition, there is nothing inherently wrong with a lower labour force participation rate for women than for men, and with women choosing not to participate in the labour force. The family is a vital component in our society. A lower labour force participation rate of women than men reflects at least in part this division of responsibilities.

Support services for women

To uphold the principle of freedom of choice for women to enter the labour force, the Government provides special support services for women in view of the prevalence of nuclear families and an increasing number of working mothers. Day care facilities for young children are the major type of such family support services. There are at present over 200 aided day nurseries providing some 23 000 places and 24 aided day creches providing about 1 500 places. Over 400 occasional child care places are provided to assist families who need short-term temporary care for their children. Non-governmental organizations are also running after-school care programmes for primary school students who come from needy families with working parents. Assistance under the Comprehensive Social Security Assistance Scheme or charitable trust funds is available to all parents who cannot afford full fees for such services.

To address the shortage of local domestic helpers in Hong Kong, we allowed the importation of foreign domestic helpers for employment since the early 1980s. There are at present over 140 000 such helpers in Hong Kong. This arrangement has enabled more women to take up full-time employment in the labour market. According to a Government survey in 1993, the labour force participation rate of women for households with foreign domestic helpers was 59%, compared with 43% for those without.

Another important aspect of our support services for women is maternity protection for female employees. This has been in place since the early 1970s when unpaid maternity leave of 10 weeks was first introduced under the Employment Ordinance. Further improvements have subsequently been made. The major provisions under the existing system now include paid and unpaid maternity leave and protection against dismissals of women on the ground of pregnancy. A comprehensive review on maternity protection for women workers has recently been completed. We will shortly be consulting the Labour Advisory Board and Members of this Council with a view to proceeding with the necessary legislative amendments. This consultation exercise will be conducted shortly.

Education and training for men and women

We abide fully by our commitment to ensure that all the economically active local persons irrespective of their gender, who wish to enter the workforce, will have ample opportunities to be employed in the labour market. This we are doing through education, training and employment services. As each of these services is equally accessible to both sexes, women have never been deprived of any opportunities to benefit from them.

With respect to education, we provide all children irrespective of their gender with nine years of free and compulsory education and heavily subsidized school education beyond Secondary Three Admission of students to the

universities and other tertiary institutions is based solely on academic merit regardless of gender and no one will be deprived of a place through lack of means under our established objective. The rapid expansion of tertiary places in recent years has given rise to an increase in the labour force participation rates of women in the 25-29 age group, from 75% to 82% in the last five years. This suffices to show the direction along which our education work is heading.

In addition, the Government is providing a comprehensive system of technical training and industrial training through the Vocational Training Council and other training bodies to cope with the growing needs of our economy. The recent years have seen a steady increase in both the quantity and quality of such training courses. All of such courses are open to both men and women.

Employment services

The Local Employment Service of the Labour Department provides free employment and counselling service to all able-bodied job-seekers, including retrainees, through its network of nine local employment centres. The Selective Placement Service provides specialized employment service to people with a disability. Both these services are equally accessible to both male and female job-seekers.

In recent years, we have made special efforts to help displaced workers affected by the restructuring of our economy to re-enter the workforce. The most significant initiative is the Employees Retraining Scheme which was established in 1992. The retraining courses provided by the Employees Retraining Board are available to both male and female local workers at or over 30 years of age. As women account for the majority of the registrants for most of the retraining courses, the Scheme is performing an important task to keep our women working and to provide opportunities for those who choose to join the workforce for the first time, or those wishing to rejoin the workforce after a break.

The Pilot Job Matching Programme has been well-received since it was launched last month, and it is now providing active employment assistance to all unemployed persons at or over 30 years of age, by matching them with actual job vacancies for employers through direct job referrals and arrangement of suitable retraining courses. So far, a total of 370 persons have been registered and a total of 108 placements have been made. Female job-seekers show a slightly higher registration rate and a higher placement rate than their male counterparts.

Conclusion

To conclude, we do not agree that the comparatively lower labour force participation rate for women than men in Hong Kong is a serious problem. We also disagree that it is mainly caused by a lack of sufficient support services

rendered by the Government. We nevertheless support the motion because the Government is committed, on account of our employment policy, to consider adopting all possible ways and means to enhance the employment opportunities of local workers, men and women alike, and to improve support services to women whenever necessary. This is also in line with the proactive measures we have taken recently towards facilitating displaced local workers to re-enter the workforce, through training retraining and the job placement services.

We are always prepared to review the priorities and effectiveness of our existing employment services in the light of changing circumstances and community needs, including particular employment problems facing particular sectors of the population, such as working women. We remain open and receptive to suggestions on how and when we can improve not only our employment assistance to women, but also all our existing services available to the working population as a whole.

Amendment motion

Before I comment on the Amendment Motion, let me state categorically that the Government takes seriously the problems of discrimination and will continue to examine and tackle such problems through appropriate means. For example, after the consultation exercise in 1993 of the "Green Paper on Equal Opportunities for Women and Men", it was clear that there was a consensus that sex discrimination existed and it should be tackled through legislative means. That is why the Administration introduced the Sex Discrimination Bill into this Council last October.

The Amendment Motion alleges that the lower labour participation rate of women is mainly the result of prevalent discrimination against women by employers. As I already explained, the comparatively lower labour participation rate for women largely reflects our social structure and traditional values. The Amendment Motion then urges the Government to actively implement measures to eliminate age and sex discrimination. The Sex Discrimination Bill is now being considered by this Council and we hope it can be enacted soon. Our position is clear: if it can be demonstrated unequivocally that a certain type of discrimination exists to the extent that it harms the interests of our community, we will not hesitate to take measures to tackle the problem. On the question of age discrimination, we will be commencing a study on this area later in the year to establish the extent of the problem before considering remedies. We believe in the merits of an incremental approach. We will not jump to hasty conclusions without first studying the facts.

For these reasons, the Administration will oppose the amendment motion.

Question on the amendment put.

Voice vote taken.

THE PRESIDENT said he thought the "Noes" had it.

Mr LEE Wing-tat and Mr LEE Cheuk-yan claimed a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Will Members please proceed to vote?

PRESIDENT: Are there any queries? If not, the results will now be displayed.

Mr Martin LEE, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Dr TANG Siu-tong, Miss Christine LOH, Ms Anna WU and Mr LEE Cheuk-yan voted for the amendment.

The Chief Secretary, the Attorney General, the Financial Secretary, Mrs Selina CHOW, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Moses CHENG, Mr CHIM Pui-chung, Mr Timothy HA, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Mr Roger LUK and Mr James TIEN voted against the amendment.

THE PRESIDENT announced that there were 19 votes in favour of the amendment and 20 votes against it. He therefore declared that the amendment was negatived.

PRESIDENT: Mrs Selina CHOW, you are now entitled to reply and you have four minutes 22 seconds out of your original 15 minutes.

MRS SELINA CHOW (in Cantonese): Mr President, I would like to express my gratitude that a majority of colleagues has expressed their opposition to the amendment. I urge my colleagues to support my original motion.

I hold that the original motion is worth supporting because it is proactive in nature. We have all along been cherishing the hope that concerted efforts be made to create more employment opportunities for women in Hong Kong. I must reiterate that it is my sincere wish that today's debate may generate more

input from Members, whether in the areas of support service or training or in others. Any proposal aiming at assisting women in securing employment should be worthy of consideration.

I must emphasize that my proposal only serves as an example. We have conducted extensive consultation on this plan and we have considered the plan carefully. I hope that the Government will take the plan on board and undertake a pilot scheme. It is also my hope that this proposed plan will encourage other Members to come up with other proposals for consideration by the Government.

Question on the original motion put.

Voice vote taken.

THE PRESIDENT said he thought the "Ayes" had it.

Mr LEE Wing-tat and Mr LEE Cheuk-yan claimed a division.

PRESIDENT: Council will proceed to a division.

PRESIDENT: Will Members please proceed to vote?

PRESIDENT: Are there any queries? If not, the results will now be displayed.

The Chief Secretary, the Attorney General, the Financial Secretary, Mrs Selina CHOW, Mr Ronald ARCULLI, Mrs Peggy LAM, Mrs Miriam LAU, Mr LAU Wah-sum, Mr Peter WONG, Mr Moses CHENG, Mr CHIM Pui-chung, Mr Timothy HA, Dr LAM Kui-chun, Mr Eric LI, Mr Steven POON, Mr Henry TANG, Dr Samuel WONG, Dr Philip WONG, Dr TANG Siu-tong, Mr Roger LUK and Mr James TIEN voted for the motion.

Mr Martin LEE, Mr SZETO Wah, Mr Albert CHAN, Mr CHEUNG Man-kwong, Rev FUNG Chi-wood, Mr Michael HO, Dr HUANG Chen-ya, Miss Emily LAU, Mr LEE Wing-tat, Mr Fred LI, Mr MAN Sai-cheong, Mr TIK Chi-yuen, Mr James TO, Dr YEUNG Sum, Mr WONG Wai-yin, Miss Christine LOH, Ms Anna WU and Mr LEE Cheuk-yan voted against the motion.

THE PRESIDENT announced that there were 21 votes in favour of the motion and 18 votes against it. He therefore declared that the motion was carried.

DETENTION OF HONG KONG BUSINESSMEN IN CHINA

DR HUANG CHEN-YA moved the following motion:

"That this Council urges the Government to take a serious view of the detention of Hong Kong businessmen in the Mainland and to take measures to safeguard the interests and safety of our businessmen."

DR HUANG CHEN-YA (in Cantonese): Mr President, I move the motion standing in my name in the Order Paper, "that this Council urges the Government to take a serious view of the detention of Hong Kong businessmen in the Mainland and to take measures to safeguard the interests and safety of our businessmen".

Let me start by telling you a story. Last November, I sent a letter to the Governor on behalf of the Democratic Party regarding the "detention of Hong Kong businessmen in the Mainland", and requested the Hong Kong Government to take positive action to provide assistance to those businessmen. In its reply, the Government claimed that there had already been established channels to provide assistance to Hong Kong businessmen and their families when necessary. In addition, a telephone number was provided in the reply as a means to try to indicate that the Government was actually providing those services rather than just making an empty show of concern.

We called the number and regrettably discovered that it was simply an enquiry hotline of the Immigration Department. Though the service provided eight enquiry items, none of them was related to the assistance mentioned above. We therefore directed our enquiry to the staff at the enquiry counter and asked, "I have a friend who has been detained in the Mainland. Which unit of your department can provide assistance in this respect?" After some time, we got the following reply: "My boss said that you would better approach the Xinhua News Agency for help." Did this mean that the Xinhua News Agency had taken over the Immigration Department ahead of schedule? My colleague who made the call was flabbergasted. If the staff of the Immigration Department did not know for certain what services their department provided, how could the public turn to the department for assistance?

Then, I thought we might as well look up the Hong Kong Government Telephone Directory to see if the Immigration Department provided any related service. However, our efforts were of no avail.

Only after repeated enquiries then we were able to find out that the Consular Assistance Unit under the Travel Documents (Other Services) Section of the Immigration Department was responsible for providing the service concerned.

In the circumstances that the Hong Kong Government does not intend to offer assistance and intentionally fails to publicize the service concerned, the

public can hardly know the existence of such service. It is not surprising that the Unit only received 302 requests for assistance as at the end of 1994, with only 18 of them related to Hong Kong citizens being detained in the Mainland. This figure was, in fact, far different the number of cases that actually took place.

Early last year, my colleagues in the Legislative Council had questioned the Government several times on what measures it had taken to assist the Hong Kong residents being detained in China. The Government had repeatedly stressed that it could do nothing apart from providing the existing channel through which the Chinese authorities could be requested to clarify the grounds on which the Hong Kong individuals had been detained. In its report submitted to the Legislative Council at the end of last year, the Government still "stuck to its old ways". That is to say, the Government gave various excuses for not offering "consular-type assistance" such as providing the detainees' families with information of the detainees, visiting the detainees and accompanying them to courts, which are the most basic forms of assistance by international standards. It had acted totally against the moral obligation which a government should bear. The British Government to adopted a passive and indifferent attitude and seldom offered assistance through diplomatic channels. It had completely broken its promise laid down in the Sino-British Joint Declaration. According to Section four of the Declaration, the British Government will be responsible for the administration of Hong Kong during the transition period with the object of maintaining and preserving its economic prosperity and social stability. In other words, the British Government should assume full responsibility for protecting the people of Hong Kong. However, it is obvious that Britain had already failed to honour its commitment.

We strongly demand that the British and Hong Kong Governments should honour all the responsibilities shouldered by them. The current approaches of the British and Hong Kong Governments, are extremely formulaic. We can see from the report that the Hong Kong Government, as a routine procedure, would request the Chinese authorities for explanation. In most cases the Chinese side would give no response. The British and Hong Kong Governments accepted this kind of no-reply response as the result. In the report, the Hong Kong Government even bragged unblushingly that such approaches were "well-established channels". What a shame! I believe that you still remember how the US Government strived for fair and humane treatment of its citizens as illustrated in the case of an American teenager sentenced to flogging in Singapore. By comparison, the Hong Kong Government was cold and indifferent when the interests of the local people being detained overseas had to be safeguarded. As a matter of fact, the Hong Kong Government should exercise positive intervention and put forward its requests to the Joint Liaison Group so that the detainees will be allowed to see their families and lawyers. At the same time, the British Government should keep on urging the Chinese side to acknowledge the rights of the detainees diplomatic channels and make use of every occasion and every opportunity to strive for the release of the detainees.

Furthermore, we learnt from the report that in many cases, the families of the detainees only sought help from the Government a year, or even two years, after the incident had taken place. Besides, the number of requests for assistance received by the Government failed to reflect the real situation. All these facts showed that the Government provided the services in a covert manner and the services were seriously inadequate. As a result, the parties involved had no confidence in seeking assistance from the authorities concerned. We therefore suggest that for Hong Kong businessmen being detained in the Mainland the Government should provide specific assistance, including a special hotline and consultation service on Chinese laws, with such publicity as necessary to enable the public to know that the services are available.

Mr President, Hong Kong tops the list of foreign investors in China. In 1993, the amount of foreign investment China had actually made use of totalled up to US\$27.51 billion, which accounted for 63% of the total investment. While investment in the Mainland made by Hong Kong businessmen continues to rise, the problem of their being detained is getting more and more serious. The confidence of Hong Kong businessmen regarding investing in the Mainland has been severely shaken, resulting in the economies of both China and Hong Kong being adversely affected. Worse still, foreign investors will worry about the situation and hesitate in investing in the Mainland. Last year, I sent a letter to Mr QIAO Shi, Chairman of the Standing Committee of the National People's Congress (NPC), and the Hong Kong delegates to the NPC, requesting them to acknowledge the basic legal rights of Hong Kong businessmen and ensure fair and reasonable treatment for them. Unfortunately, my letter to Mr QIAO Shi was just like a stone dropped into the ocean and no reply had ever come. Regarding the Hong Kong delegates to the NPC, only two of them spared the time to talk to me while the rest just refused to have any contact with me. Most regrettably, the Hong Kong delegates did not put forward any proposals in the NPC meeting concerning the issue of safeguarding the rights of the Hong Kong businessmen being detained in the Mainland. I therefore take this opportunity to urge the Chinese and Hong Kong Governments to set up a Sino-Hong Kong Commercial Dispute Mediation Centre to provide Hong Kong businessmen with a channel to lodge their complaints. I think that this mediation centre should be established under the central government with nation-wide terms of reference for two reasons: first, the investment of the Hong Kong businessmen goes to all parts of China; second, some local public security authorities or enterprises in China have very strong backing, if the position of the mediation centre is low in the hierarchy, with neither authority nor influence, or if it is just a channel resembling a mailbox that gets the message across only, it would not be able to execute its stipulated functions and could hardly protect the Hong Kong businessmen.

On the Chinese side, in 1988, the Ministry of Public Security issued a document entitled *Notice on Public Security Authorities Not to Go Beyond their Powers and Interfere Illegally with Cases of Economic Disputes* and made it clear that "economic disputes should not be treated as economic crime or crime of fraud and cases which cannot be classified immediately should be handled in a

prudent manner". In addition, in 1991, the Supreme People's Procuratorate listed on its paper No. 23 the rights of the people being arrested. For instance, the People's Procuratorate should inform the unit to which the detainee belonged or his family within 24 hours of his arrest of the reasons for and place of detention. From the cases quoted in the report, we found that certain cases involving commercial disputes and detention were the result of failure of the Chinese Government to follow the law strictly or collusion between local public security authorities and enterprises to settle commercial disputes by keeping hostages. According to the report, only three cases out of 18 ended in indictment. The detainees in the remaining cases were unlawfully detained by local public security authorities and the unlawful detention period could last as long as two to three years. Moreover, during the detention period, the detainees were not allowed to see their lawyers and families. As these cases involved monetary dispute and quality of goods, the detainees were often kept as hostages for ransom. Sometimes, a detainee was but a member of the businessman's family, and not even the businessman himself. We urge the Chinese side to face up to the issue of collusion between officials and businessmen who knowingly violate the law, and acknowledge the basic legal rights of Hong Kong businessmen by implementing measures such as allowing them to meet their family members and offering them legal aid. At the same time, the Chinese side should enact legislation to provide compensation to the hostages who were unlawfully detained and severely punish the people and bodies knowingly violating the law.

Mr President, as 1997 is approaching, it is an issue of great urgency to protect the investment of the Hong Kong businessmen. The current diplomatic channels to handle the problems will no longer be applicable after 1997. The British and Hong Kong Governments should discuss with the Chinese side about the channels, organizations and legislation which will be available after 1997 for safeguarding the personal safety of Hong Kong businessmen in the Mainland.

With these remarks, I move the motion.

Question on the motion proposed.

MR LEE CHEUK-YAN (in Cantonese): Mr President, the illegal detention of Hong Kong businessmen in China is not simply a matter that bears on the question of investors' interests; it bears on the question of human rights and security of the person as well! Talking about Hong Kong people being unreasonably detained in the Mainland, not only are Hong Kong businessmen victims but sometimes those employers who have gone to work in China are detained through no fault of their own. Therefore, I hope that the personal safety of workers should also be the concern of both the Government and Members of this Council.

It is true that among Hong Kong people illegally detained in China in recent year, some were involved in financial disputes. However, financial

disputes or other civil actions should be resolved by due process of law rather than having the people involved illegally detained as "hostages". Please note that the word "hostages" is not my own creation, and I shall explain later that it is in fact a term used by the Chinese Government. What is shocking is that quite a number of illegal detention cases are perpetrated by Public Security or other law enforcement officers of China, and they even make personal profits out of it. Such abuse of one's power and office to trample on human rights in order to gain personal benefits must be severally censured and stopped!

Three persons unreasonably detained for over two years

The Hong Kong confederation of Trade Unions earlier received a complaint which is a glaring example of the sort of case we are discussing. The three Hong Kong workers involved in the case have been unreasonably detained in China for over two years and the matter is still unresolved. Let me briefly describe this case.

In October 1992 three Hong Kong workers boarded and worked on an ocean-going international commercial vessel on the instructions of their employer. However, they were detained by the Chinese border patrol in international waters. Subsequently, the captain and all other foreign members of the crew were released, with the exception of the three Hong Kong workers who were detained in China. For more than two years, the Chinese authorities never pressed any charges. Instead, the authorities have been detaining the workers and refusing to release them. During this period, the relatives of these three detained workers paid liaison fees that amounted to over several hundred thousand dollars to the Chinese border patrol personnel, in the hope that their family members could be released. However, the ransom demanded was as much as \$3 million. How can those relatives afford it? The family members of these three workers have been afraid to make a complaint to the Hong Kong Government. They have of course made a complaint to some National People's Congress delegates but the workers have not been released to date. The fact that they have been afraid to make a complaint to the Hong Kong Government shows that they do not have confidence in it for fear that it would become even more difficult for their family members to be released should they so complain.

The Chinese authorities also admit breaches of law

In fact, even the Chinese Government has admitted that Chinese law enforcement and public security personnel have illegally detained people as means to deal with financial disputes or seek financial benefit! I have with me several internal circulars issued by the Chinese law enforcement authority which clearly admit the seriousness of illegal detention and express the view that such behaviour has to be severally punished. I hereby quote from these circulars in order that Members can understand the crux of the problem.

In October 1990, the internal circular of the People's Supreme Procuratorate's views on cases concerning investigation of "hostage-type" violation of civil rights pointed out thus: "In recent years, "hostage-type" criminal acts of forcible detention of "hostage" and the use of threats to coerce people into doing certain things are getting more and more serious and have become a social problem the people are concerned about. These cases are posing great danger to society. Not only do they infringe upon the civil rights of the people, but they also destroy the normal social and economic order, especially when it is the officers of law enforcement departments, public security bureaux or the judicial authorities who have taken part in the kidnap and detention of hostage. Such has seriously damaged the image of the Party and the Government. Also it encourages local protectionism, interferes with the normal law enforcement procedures and undermines the unified implementation of the socialist legal system." As to the main causes of such criminal acts, three points were mentioned in that internal circular, and I would like to mention the third point in particular, which is in the following terms: "thirdly, there is the evil influence of local protectionism which is serious, and some people disregard the law to secure a few benefits; they use their judicial power to investigate and detain one of the parties as hostage and force him to repay money or surrender property."

In the same year, another document titled *Circular by the Public Security Department, the People's Supreme Procuratorate and the People's Supreme Court* on cases of Illegal Detention Arising From Commercial Activities pointed out this: "According to the report by the Guangdong Public Security Bureau and the People's Procuratorate of Guangdong, cases of commercial dispute kept arising in Shenzhen; in these cases one party of the dispute forced the other party to repay debts by means of illegal acts of kidnapping and detention of hostage. According to an analysis of the 12 cases of this nature in 1989, four cases involved officials of Shenzhen, four cases involved officials from other countries or townships of Guangdong Province and another four involved officials from other provinces; seven of these cases were started by staff of enterprises who took the law in their own hands and five involved the participation of public security and procuratorate personnel; of the people who were kidnapped and detained, seven were persons-in-charge or staff of enterprises, four were Hong Kong businessmen, one was a private trader and one was the family member of an uninvolved party."

PRESIDENT: Yes, Mr CHIM. I am sorry, Mr LEE. Is that a point of order?

MR CHIM PUI-CHUNG (in Cantonese): Mr President, there are only 10 Members in the Chamber now, the number is too small indeed. The sitting should be suspended.

PRESIDENT: If a Member points out the lack of a quorum, I have to suspend the sitting until a quorum is obtained. I am afraid you have to stop, Mr LEE.

7.25 pm

Sitting suspended

7.32 pm

Sitting resumed

PRESIDENT: Mr LEE, you can resume. You have a minute and a quarter.

MR LEE CHEUK-YAN (in Cantonese): Thank you, Mr President, I must also thank Mr CHIM Pui-chung as he was instrumental in getting more Members to listen to my speech.

Furthermore, as early as March 1989, a document issued by the Public Security Department, which is entitled *Notice on Public Security Authorities Not to Go Beyond their Powers and Interfere Illegally with Cases of Economic Disputes*, pointed out thus: "It is recently found that some lower rank public security officers directly interfered with certain economic dispute cases in the name of investigating or dealing with economic crimes such as frauds." In some cases, they forcibly remanded and detained one of the parties in order to extort money or property on behalf of the other party, and some of them even charge a certain proportion of the disputed amount as profits.

Hong Kong and China should set up a Joint Organization to Handle the Complaints

We can see that the problem of illegal detention of "hostages" by public security and law enforcement officers is so serious that even the departments of the central government of China learnt of it long ago and have proposed to punish people severely for those crimes. Therefore, there is no reason the Hong Kong Government should avoid dealing with the matter. My view is that discussions should be held by both sides on the setting up of a liaison organization to openly receive complaints lodged by Hong Kong people so as to put an end to the illegal detention of Hong Kong people. I believe that only an organization jointly established by the Chinese and Hong Kong Governments can enable family members of the victims to make their complaints with confidence. Hence the illegal activities can be put to an end soon.

Finally, I think China must severely punish according to the law those who illegally detain "hostage", especially when the culprits are public security

and other law enforcement officers of China. Only in doing so can these illegal activities which are against human rights be truly put to an end and the confidence of the people of Hong Kong in the justice system of China be restored.

Mr President, these are my remarks. Thank you.

MR JAMES TO (in Cantonese): Mr President, lots of Hong Kong people invest in the Mainland in recent years, and many commercial disputes coming in a multitude of possible combinations have arisen. Quite often, they belong to the kind of commercial disputes that often occur in the Mainland, as mentioned by the Honourable LEE Cheuk-yan, that is those stated by the Central Government of China in 1989 in the *Notice on Public Security Authorities Not to Go Beyond their Powers and Interfere Illegally with Cases of Economic Dispute*. As a matter of fact, the Chinese Government knows that public security officers illegally help press for the repayment of debts, use pressure or enforce the law improperly to force certain people to make compensation or settle commercial disputes. In fact, some people such as those with special background or those refusing to admit their loss in gambling were not detained by public security officers.

Recently, we may have heard that a Hong Kong consortium established a foreign exchange investment company in the Mainland. Many customers, organizations or individuals took part in foreign exchange investment. Later, when these customers lost their money, they detained the representatives of that Hong Kong company in a hotel in the Mainland. They were not public security officers, but ordinary citizens and representatives of the Mainland organizations who had lost money. These incidents arouse our concern. What protection are available to Hong Kong businessmen in the Mainland?

In the long run, China has to establish a system of rule of law so that everyone has legislation to comply with, because law enforcement means to act according to law. This will take a very long time to achieve. The reason for the Democratic Party to move this motion is that we think the Chinese Government knows about this issue and it knows that the problems such as corruption and dereliction of duty exist. Whenever such cases occurred, Hong Kong businessmen or citizens would seek help from the Hong Kong Government. The Hong Kong Government or the British Government should then bring up the cases to the attention of the Central Government of China, enabling it to understand the situation as the latter may sometimes fails to oversee the local government and may know nothing about the occurrence of such cases.

In the many cases which the Hong Kong Government reported to this Council, it was mentioned that the British Under-Secretary for Foreign Affairs, Mr GOODLAD, and even the Foreign Secretary, Mr HURD, had discussions many times with the Deputy Premier of China, Mr QIAN qi-chen. Those

negotiations should have helped the Hong Kong people or allow the Chinese Government to know more clearly about the situation in China, and help settle the problem. Therefore, I believe that we need not evade the issue for fear of being accused of intervention.

On the other hand, some Hong Kong businessmen did collude with other people in the Mainland to defraud, or commit illegal acts and commercial crime on some Units. We cannot over-generalize and say that all Hong Kong businessmen are detained for no reason. In some cases, Hong Kong businessmen did misbehave themselves in the Mainland and act illegally. The question is, I believe, that no matter what illegal act they have committed, they should be handled impartially according to the law of China, and be heard in public. Therefore, we still hope that the Hong Kong Government can join efforts with the British Government to help Hong Kong people as much as they can. This will be good for both Hong Kong and China.

I have one point to query. The Secretary for Security reported on the cases they had followed up in his document issued on 4 November, and stated that according to international law, if the British Government were to raise a request through diplomatic channels or consular means, there would be jurisprudential complications. In international law, Hong Kong citizens entering the Mainland with a Home Visit Permit are regarded as Chinese citizens. It would be difficult to handle those cases according to international law. I understand that there may be some difficulties in this respect, but I think this should not be our excuse for not rendering assistance. As stated in the same document, the Hong Kong Government also knows that there are many other channels to negotiate (including diplomatic channels). Therefore, it has to be pointed out that if Hong Kong people do not enter the Mainland with the Home Visit Permit, unnecessary disputes on nationality will not arise. For the same reason, I have my worries for another type of persons, namely those who possess a British Passport and who have obtained the right of abode in Britain. If they enter the Mainland with a Home Visit Permit, according to international law, does the Britain Government still have the right to negotiate their cases through diplomatic channels? This is a big problem. I believe that according to British legislation, those people are obviously British. If they use Home Visit Permit, should we advise them not to do so? Should we tell them if they want to receive assistance, they should use a British Passport to apply for a visa instead of using a Home Visit Permit? This also involves the difficulties related to the definition of permanent residents as stated in Article 24 of the Basic Law. Will those who have been granted the right of abode in Britain be considered as Chinese according to Chinese legislation? What is the attitude of Britain towards this issue?

On the other hand, there is the problem of confidence. This kind of incidents will affect not only the confidence of Hong Kong businessmen but also that of foreign investors, including those Chinese who have emigrated to other countries and become citizens there. Quite often, they become foreign investors

in the Mainland. Some of them may have also been qualified as residents of Hong Kong. The problem involved is much greater than what we have known.

I have sought help from Representatives of the National People's Congress regarding some cases. However, they told me that they had written to departments such as the New China News Agency which only replied that the cases had been transferred to the departments concerned for action. There seemed to be no other solution. There is another more important issue. Recently, I came across a case relating to the many commercial disputes in China. The Chinese companies involved appointed Hong Kong debt-collecting companies to collect their debts in Hong Kong. However, these companies in effect used criminal intimidation means to achieve their ends and thus created nuisance. They even sent killers to track down designated persons, resulting in violence and murder cases. I hope the Government will face this problem squarely.

Finally, I hope that the Hong Kong Government can discuss with the relevant authorities in China and see whether any normal channels or standing organizations can be established to help solve the problem.

MRS ELSIE TU: Mr President, I know that some businessmen are concerned about this matter and therefore I would say only a few words about it.

I agree that the arrest must be according to law. I think this kind of arrest not only happens in China, but I have heard it happen also in Macau and perhaps even in Hong Kong. But it should not happen anywhere. So I do agree that arrest must be made according to law and that the charges should be stated openly so people know why they are detained if they have to be detained for some time. I think they should also be allowed to communicate with their lawyers. And I think that they should also be allowed to have visits from their relatives.

As an adviser for China on Hong Kong, I have already raised this with the Chinese Government and I hope I have seen a slight improvement in one particular case. But I do support the motion and I hope that the Government will take up the matter.

MR MARTIN LEE: Mr President, it was just a few years ago that people used to say in Hong Kong that only political dissidents from Hong Kong would be arrested and locked up in China, if they should go north, certainly not businessmen, particularly those businessmen who have good "guanxi" in China in the form of partners with political clout, either in the central or local governments. But experience has shown to the contrary. Experience has shown that it is businessmen who never thought that anything would happen to them who find themselves suddenly arrested when commercial disputes arise. And they find themselves being victims of the lack of rule of law in China.

Even as we debate this motion today, five Hong Kong residents are actually being held in China. According to information supplied by the Secretary for Security, since 1991 there have been at least 20 Hong Kong residents who had been detained or imprisoned in China as a result of commercial disputes. Of course, Mr President, this only represents the tip of the iceberg because these figures relate only to those who actually sought help from the Hong Kong Government, and therefore not counting the American-Chinese businessmen who have not sought help from the Hong Kong Government, and we know of course in practice, most Hong Kong businessmen who are held hostage would simply pay up and shut up. And therefore they would never go into the Government's figures.

It is not surprising that as we debate this motion today, we do not see a single representative of the business functional constituencies here in this Chamber, because they clearly take the attitude: "It is not going to happen to me, because I have more clout, or perhaps I am willing to pay more."

Mr President, this, after all is, V-Day, or close to it, as thousands of people are celebrating victory day in Europe and elsewhere. Let me remind Members of a famous saying by a gentleman called Martin NIEMOELLER, who was in fact a victim under the Nazis during the Second World War, and after the Second World War there were trials of these war criminals. This is what he had to say:

"In Germany, they first came for the communists. I did not speak up for them because I was not a communist. Then they came for the trade unionists. I did not speak up for them because I was not a trade unionist. Then they came for the Jews. I did not speak up for them because I was not a Jew. Then they came for the Catholics. And I did not speak up for them because I was a Protestant. But finally, they came for me, and by that time, there was nobody who would speak up for me."

Mr President, I have got some names here and these names are all documented either in international or local press. Mr O was detained by the Huaiyin Public Security Bureau in June 1994 in connection with an alleged debt owed by his son to a company in China. Mr O's family said he knew nothing about the debt, but the mainland company demanded payment in exchange for his release. He was not released until November 1994. He is called Mr O because of course he did not like his name to be revealed.

Then in March 1989, there was a Hong Kong businessman called CHOI Chi-ming who was jailed in Hunan for 11 weeks on trumped-up gold smuggling charges when he refused to pay a US\$531,000 bribe to local police. He spent the next three years retrieving his confiscated passport and clearing his name. But it was not thanks to the Hong Kong Government that he was released. He was freed after intervention by John KAMM, former chairman of the American Chamber of Commerce and well-known human rights activist.

In August 1993, the police in Changsha detained United States businessman Dr Philip CHENG after his business partner — who owed him US\$165,000 — falsified documents to have him arrested. He was tried and sentenced by a judge who was the brother of his erstwhile partner. And it took seven months before Dr CHENG got his passport back after a higher court ruled that he had been wrongly arrested.

And then there was the Hong Kong entrepreneur and American citizen CHONG Kwee-sung, and the well-know Mr James PENG, the kidnapped Australian-Chinese businessman who thought he had very good "guanxi" until things went sour. And most recently on 13 March this year, Miami businessman Mr Troy MCBRIDE had his passport confiscated and he and his business partner were held hostage in a central China hotel in Anhui Province because of a commercial dispute.

Mr President, all investors would prefer to invest in Hong Kong because if anything should go wrong, they are very happy to go to a Hong Kong court, but not a court in Guangdong or Sichuan, for example.

The only way forward, Mr President, is not for the Government to take an attitude of "I see not, I hear not, I know not, so it does not exist." The Hong Kong Government should look at this particular matter very closely and seriously because you do not solve a problem by not acknowledging that it exists. I think the only hope for us is to do everything within our power to preserve Hong Kong's rule of law and make sure that China will honour its obligations under the Joint Declaration.

Mr President, I support the motion.

MR WONG WAI-YIN (in Cantonese): Mr President, today's motion debate proposed by Dr HUANG Chen-ya is indeed a very important one. Unfortunately, we can hear no Member from the Liberal Party speak. Nor can we see any Member from the Liberal Party seated to hear our debate. Why did I say this is an important motion debate? The reason is that what has happened to those detained and investigated in China, be they Hong Kong businessmen or ordinary citizens, may happen to any Hong Kong residents. This is not alarmist talk. Later, I will describe to Members several cases to prove this.

The subject of today's motion focuses on Hong Kong businessmen because they may possess a certain degree of publicity, and their conditions may be known by the mass media or through other channels. But, as Mr LEE Cheuk-yan mentioned a moment ago, quite a number of ordinary Hong Kong residents or employees may now be detained and investigated indefinitely in China for a variety of reasons, and these reasons may be fabricated or unwarranted ones. This kind of detention and investigation by Chinese parties is in fact illegal. Furthermore, it ignores human rights. To detain and investigate is to detain someone and conduct investigation into a case. Detention and investigation may

continue indefinitely. So long as the Chinese authorities cannot gather sufficient evidence, they will not bring any charges against the detainees. However, during the interim, they will try to blackmail the relatives of the detainees or to do many other things.

Mr Martin LEE also mentioned cases about some Hong Kong businessmen or foreign investment businessmen, that is, businessmen of American or Australian nationalities. I want to talk about several of the cases I have personally handled. One of them is like this: The client represented an employer in Hong Kong to discuss business matters in China. A deal was struck. The Chinese party agreed to pay for goods to be delivered by the employer in Hong Kong. However, after the Chinese party had paid the deposit, the Hong Kong employer disappeared. So, the Chinese party detained the business representative so that his employer would come forward to pay a ransom for his release. No one knows how long he had to wait. In case similar to the above one, both sides of the deal had an intermediary in China. The intermediary disappeared. Again the business representative was blamed for the mishap. Both sides wanted their money back and both wanted the goods too. The matter ended again in detention and investigation of the representative for an indefinite period. Another interesting case involved a container truck driver who transported goods for a Hong Kong employer. The driver transported a container to China for the employer. When the goods were examined, it was found that the goods did not match what was declared to customs. The driver was accused of smuggling and both he and the goods were detained.

Not a year passed without several reported cases similar to those described above. In such cases, Chinese public security officers or customs officers never mentioned the charges. They detained those involved and then they investigated. Their investigation means contacting family members of those involved, and demanding that such family members bring money, usually in the sum of RMB 500 000, 800 000 or one million, to China for settlement. They used the time for investigation to have numerous contacts with the family members of those involved. The detainees, however, were never allowed to contact anybody: lawyers, family members, wives — anyone at all. What kind of system is this?

The case of the container truck driver I mentioned a short while ago had some interesting developments. When the driver's wife knew about the matter, she naturally went to see the driver's employer and asked: "Your goods were a mismatch and my husband has been detained. What should we do?" The employer responded: "Do not worry. Talk to a member of the National People's Congress". Which member? At last, she talked to Mr CHENG Yiu-tong, who said, "Your husband is a container truck driver. I would suggest your contact Mr TSE Long, Chairman of the Container Transportation Employees General Union. He may work things out." So, off she went to talk to Mr TSE Long. Mr TSE Long said to her: "Is your husband a member of our union? No? You must join in as a member and I can give you help right away. If you are not a member, I cannot give you any help." The wife did not know

whether she should join the union. She discussed the matter with the employer, who said, "Okay. It is a simple matter. I will talk to the authorities in China, and I am sure I can solve the problem." She waited for quite a while before she finally came to see me. I told her, "To solve the problem, we must approach the Political Advisor of the Hong Kong Government." On hearing the words "Political Advisor", she was scared and said, "No need. I had better wait and see how the employer can help solve the problem."

Mr President, there are quite a few cases similar to those described reported to me every year. I recall having asked a question some years before regarding the number of Hong Kong residents who were detained by China in a similar fashion. At the time, the Secretary for Security gave the number he knew of. No one could tell how many unreported cases there were. Is there a mechanism existing between the Hong Kong and Chinese Governments whereby the Chinese Government may notify the Hong Kong Government as to why a Hong Kong resident is detained whenever detention happens in a province or place in China, so that Hong Kong people and the detainee's relatives may know where the detainee is and why he is detained?

MR HENRY TANG (in Cantonese): Mr President, the Honourable WONG Wai-yin said that none of the Liberal Party Member has ever spoken on this motion, I therefore rise to speak at his request.

The Liberal Party has proposed to move an amendment to Dr the Honourable HUANG Chen-ya's motion last Wednesday, but the President disapproved the proposal on the ground that the amendment has gone beyond the scope of the original motion. I would like to make it clear at the outset that we do not intend to oppose Dr HUANG's motion, but we cannot figure out why his motion targets only at China and not at any other countries and places. That is why I intend to move an amendment stating clearly that we should be concerned with any Hong Kong people detained in whatever country. In view of this, I cannot understand up till now, why the President has refused to give the green light for moving my amendment.

The figures that I am going to give may illustrate clearly the reasons why I intend to move the amendment. According to the information provided by the Immigration Department, there are at present 277 Hong Kong residents being detained or sentenced outside Hong Kong for violation of the laws of the overseas countries. Among these 277 Hong Kong residents, 241 are now serving sentences and 36 are being detained. A breakdown of the countries holding Hong Kong residents in detention shows that 13 people are detained in Japan; nine in Thailand; three each in India and St. Lucia; two each in the Phillipines and Nepal; one each in the United States, Canada, Malaysia and the Netherlands. It may sound like a small number but I am sure that even one person in detention should be a cause for concern. A majority of those detainees are detained for alleged drug trafficking, commercial or overstaying offences. When we glance through the list, we simply cannot expect that all

these countries would have a sound trial and judicial system as what we have in Hong Kong. In all those cases where Hong Kong residents are detained, they may not have been treated in a fair, open and equitable manner. Therefore, the Hong Kong Government should provide basic assistance to these people and their families on humanitarian grounds.

One point that is worth paying attention to is the fact that the list provided by the Immigration Department does not include those Hong Kong residents who are being detained or imprisoned within China. Most of the Hong Kong residents go back to China on Home Visit Permits and the Chinese authorities do not regard these Hong Kong people as foreign residents. Even if Hong Kong people act in breach of Mainland laws, they cannot be offered consular protection in Her Majesty's Embassy in China. Therefore, we have no idea on the exact number of Hong Kong people being detained by the Chinese Government. The lack of transparency is a great cause for concern.

In addition, the prosperous trading activities between Hong Kong and China have resulted in a greater number of Hong Kong businessmen going back to China. In order to stimulate the investment initiatives of Hong Kong businessmen, a sound legal system in addition to a favourable investment environment are needed. I believe that the "Zhili Factory" fire accident is still fresh in our memory. Although the Hong Kong businessman is now on medical parole, we were all taken aback to see the tattered, shabby and bare-footed businessman on the first day of trial.

The "Zhili" accident sets a good example for similar cases with regard to the entire trial process. The Shenzhen City authorities should be commended for the way it handled news reporting because the proceedings of the trial of first instance was conducted openly in a temporary court converted from a theatre in Longgang. I believe that it had opened a new page in history that overseas reporters were allowed, for the first time I believe, to report and shoot the entire proceedings. This was a big step forward in terms of openness and transparency. The open trial sent a wave of panic across the commercial sector in Hong Kong and the press started a debate based on the legal system of China. It has also sounded an alarm bell among those Hong Kong businessmen who have been disregarding the laws of the Mainland. All the more, it has provided a good lesson for the judiciary in China.

However, not each and every case is being handled in such an open manner. Maybe even the Hong Kong Government has been kept in the dark in respect of a lot of cases. There are also some other cases about which the Government can do nothing even if they have been reported to the Security Branch. With respect to these cases, I urge the Hong Kong Government to establish a mechanism through diplomatic channels so that the Government will be in a better position to get an inner picture of the situation and to protect human rights by ensuring communication between the involved party and his family as well as ensuring the conduct of fair and open proceedings within the

shortest possible time. Only through such a mechanism can the interests and safety of Hong Kong people be properly protected.

Lastly, I would like to add that Hong Kong will become an integral part of China after 1997. I do hope that the businessmen of the future Special Administrative Region may enjoy similar protections which will not be diminished in the wake of Hong Kong becoming an integral part of China.

With these remarks, I support Dr HUANG's motion.

8.00 pm

PRESIDENT: It is now eight o'clock and under Standing Order 8(2) the Council should adjourn.

ATTORNEY GENERAL: Mr President, with your consent, I move that Standing Order 8(2) should be suspended so as to allow the Council's business this evening to be concluded.

Question proposed, put and agreed to.

SECRETARY FOR SECURITY: Mr President, the Government shares the concerns that Honourable Members, and the community generally, feel for fellow citizens detained in the mainland. We attach the same importance to their well-being when abroad, whether in the mainland or elsewhere, as when they are in Hong Kong, be they businessmen, tourists, employees, students or any Hong Kong resident.

The Hong Kong Government and the British Government have taken reports of Hong Kong residents detained abroad very seriously, regardless of their nationality or residence status. Obviously Hong Kong residents have to abide by the laws of the place they visit. But, where there is reason to believe that a Hong Kong resident may be unlawfully detained, or held under inhumane circumstances, we seek to represent his interests as best as we can.

The precise actions we are able to take varies according to the circumstances of each case. We have received 20 requests for assistance in the last four years concerning Hong Kong residents detained in China. 19 of these cases concerned Hong Kong businessmen. We have taken up all 20 cases with the Chinese authorities. Most of the detainees have been released, but four Hong Kong businessmen are still detained in China. We will continue our efforts to bring about early resolution of their cases.

There are, of course, some well-known difficulties in rendering consular type assistance to Hong Kong residents in the Mainland. There are legal boundaries, beyond which we cannot act. The Honourable James TO has referred to some of them. Despite these difficulties, we have in the past taken the following actions:

- we have sought clarification from the authorities concerned of the circumstances under which such Hong Kong residents were detained;
- we have sought assurance that the detention is in strict compliance with Chinese law;
- we have requested access to detainees by their family members and their legal representatives; and
- we have sought assurance that the welfare of the Hong Kong resident detained is looked after properly.

All these actions have been taken in accordance with the wishes of the family of the detainee and, in the case of Hong Kong residents having a foreign nationality, in close consultation with the government concerned.

We have well-established channels for raising cases of this kind with the Chinese authorities. Our representations are initially carried out in Hong Kong by the Political Adviser's Office with the New China News Agency in Hong Kong. Where appropriate, the British Government also raises the matter through the British Embassy in Peking. Particularly serious cases where the persons concerned have been detained for long periods have also been raised at ministerial level. Most recently, the Secretary of State raised several specific cases with Vice Premier QIAN Qichen on 18 April this year.

We are aware that these cases have given rise to widespread concern in the community, in particular among businessmen having or considering investment in China. We have therefore also drawn the attention of the Chinese authorities to these wider concerns. Other countries with a legitimate concern have also raised the question with the Chinese Government.

Mr President, unlawful detentions of visitors and businessmen, wherever they occur, in circumstances which give rise to doubts about commitment to the rule of law damage business confidence. Where they occur in China, international confidence in Hong Kong's future as a centre for doing business with China is also affected. Much of our success in the past have been built on the confidence in the rule of law, and the Government is determined to do everything to protect it.

Mr President, *ex officio* Members of this Council will support the motion.

PRESIDENT: Dr HUANG Chen-ya, you are now entitled to reply and you have one minute 42 seconds out of your original 15 minutes.

DR HUANG CHEN-YA (in Cantonese): Mr President, I believe a decent delivery truck driver would not want to worry that he would be sent to prison while he is working. I also believe that an employee representing a company to negotiate about the quality of goods would not have expected that he would be detained for three years — he was not prosecuted in the end and returned to Hong Kong without being given any compensation. I believe we would all agree that it must have been a very strange experience for the Hong Kong resident in respect of whose case no judgement was passed half a year after he was brought to court and heard and was told to wait until the court could find sufficient evidence to commit him to prison.

These examples fully demonstrate the problems arising from cases in which people of Hong Kong have been unlawfully detained in the Mainland. We certainly cannot allow such cases to happen again. I find it very strange that many members of the Liberal Party and the pro-China camp have not spoken. Are they not concerned or are they afraid to speak on the matter? I believe that is something the public would like to know. However, as I have said earlier, not only are the Hong Kong Representatives of the National People Congress afraid to speak up, but they are also afraid to have any contact with me in discussing the matter. That makes me worry about the status of Hong Kong people after 1997 and their personal safety. Unfortunately, what the Hong Kong Government talks about today are still cliches, without offering any new ideas to solve the problem.

Question on the motion put and agreed to.

ADJOURNMENT AND NEXT SITTING

PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 17 May 1995.

Adjourned accordingly at eight minutes past Eight o'clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the exception of the Trading Funds Ordinance, the Administration of Justice (Miscellaneous Provisions) (No. 2) Bill 1995, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.

WRITTEN ANSWERS**Annex I****Written answer by the Secretary for Security to Mr James TO's supplementary question to Question 2**

Figures from the Interpol Office in Hong Kong show that there are, at present, 117 offenders who are known to have fled to a foreign country and notices have been issued through Interpol Headquarters requesting the arrest of these persons should they be located. However, we do not know how many of these 117 left Hong Kong after being released on bail; nor do we know how many of them are residing in a country, or territory, with which Hong Kong does not have extradition arrangements.

Annex II**Written answer by the Secretary for Security to Mr Simon IP's supplementary question to Question 2**

Figures from the Interpol Office in Hong Kong show that there are, at present, 117 offenders who are known to have fled to a foreign country and notices have been issued through Interpol Headquarters requesting the arrest of these persons should they be located. However, we do not know how many of these 117 left Hong Kong after being released on bail; nor do we know how many of them are residing in a country, or territory, with which Hong Kong does not have extradition arrangements.

Annex III**Written answer by the Secretary for Health and Welfare to Mr Tik Chi-yuen's supplementary question to Question 4**

Four speech therapists have left the Education Department over the past three years. The details are as follows:

	<i>1992</i>	<i>1993</i>	<i>1994</i>
No. of wastage	0	2	2
*Average Strength	9	8	6
Rate of Wastage	0%	25%	33.3%

* Average strength = (Strength at the beginning of the year + Strength at the end of the year)/2

WRITTEN ANSWERS — *continued*

While the wastage rate has increased, the actual number of speech therapists leaving the Department was the same in 1993 and 1994. The increasing rate of wastage is, therefore, due to the lower average strength in 1994. Of these four speech therapists, three left for retirement and one left to pursue further studies. Though the rate of wastage appears on the high side, only a small number of posts are involved and the wastage has caused no serious operational problems in the Department.

That said, the Administration is fully aware of the difficulty in recruiting speech therapists. Given that the majority of speech therapists are working in special schools, the Secretary for Education and Manpower will be taking the lead in reviewing the current shortage of speech therapists.